

Notice of Meeting and Agenda



Planning Committee

Venue: Virtual Meeting,

Date: Tuesday, 06 April 2021

Time: 13:00

Executive Director : Place

Contact:

Clerk Name:	Mike Broadway
Clerk Telephone:	0131 271 3160
Clerk Email:	mike.broadway@midlothian.gov.uk

Further Information:

This is a meeting which is open to members of the public.

Privacy notice: Please note that this meeting may be recorded. The recording may be publicly available following the meeting. If you would like to know how Midlothian Council collects, uses and shares your personal information, please visit our website: www.midlothian.gov.uk

1 Welcome, Introductions and Apologies

2 Order of Business

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

3 Declaration of Interest

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

- 4.1** Minutes of Meeting held on 12 January 2021 – For Approval 5 - 10

5 Public Reports

- 5.1** Development Plan Scheme for Midlothian - Number 13 - Report by Chief Officer Place. 11 - 34

- 5.2** Planning Guidance: Nature Conservation - Report by Chief Officer Place. 35 - 68

Pre-Application Consultations - Reports by Chief Officer Place.

- 5.3** Proposed Mixed Use Development including Class 2 (professional and other services), Class 3 (food and drink), Class 4 (business), Class 7 (hotel), Class 8 (residential institutions) Class 9 (residential), Sui Generis (flats), Class 10 (non-residential institution) and Associated Works at Land at the Junction of the A701 and Pentland Road, New Pentland, Loanhead (21/00055/PAC). 69 - 76

- 5.4** Proposed Erection of Intermediate Care Facility, the Erection of an Extra Care Facility and Alterations to existing Annexe Building to provide Day Care Facility at Land at the former St Mary's Primary School and 62A Polton Street, Bonnyrigg (21/00088/PAC). 77 - 82

Applications for Planning Permission Considered for the First Time – Reports by Chief Officer Place.

- 5.5** Application for Planning Permission in Principle for the Erection of Health and Racquets Club; with Associated Car Parking, Access, Landscaping and Ancillary Facilities at Land at Shawfair Park, Old Dalkeith Road, Danderhall, Dalkeith (20/00906/PPP). 83 - 116

- 5.6** Section 42 application to Amend Condition 1 (to increase the number of Dwellings in Phase One from 350 to 430) imposed on a Grant of Planning Permission 14/00910/PPP for Residential 117 - 152

Development, the Erection of Primary School and Mixed Use Development at Land at Cauldcoats, Millerhill, Dalkeith (20/00312/S42).

- | | | |
|------------|---|-----------|
| 5.7 | Application for Planning Permission in Principle for Residential Development; Community Facilities, Primary School and Associated Works at Site HS12 Hopefield Farm 2, Rosewell Road, Bonnyrigg (20/00151/PPP). | 153 - 216 |
|------------|---|-----------|

6 Private Reports

No private items for discussion at this meeting.

7 Date of Next Meeting

The next meeting will be held on Tuesday 18 May 2021 at 1.00 pm.

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

Minute of Meeting

Planning Committee
Tuesday 6 April 2021
Item No 4.1



Planning Committee

Date	Time	Venue
Tuesday 12 January 2021	1.00 pm	Via MS Teams

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Cassidy	Councillor Curran
Councillor Hackett	Councillor Johnston
Councillor Lay-Douglas	Councillor McCall
Councillor Milligan	Councillor Muirhead
Councillor Parry	Councillor Russell
Councillor Smail	Councillor Wallace
Councillor Winchester	

In Attendance:

Peter Arnsdorf	Planning Manager
Derek Oliver	Chief Officer: Place
Alan Turpie	Legal Services Manager
Sandra Banks	Resource Manager - LES
Jim Gilfillan	Consultant Policy & Planning
Gordon Aitken	Democratic Services Officer

1. Apologies

Apologies for absence were intimated on behalf of Councillors Baird, Hardie and Munro.

2. Order of Business

The order of business was as outlined in the agenda which had been previously circulated.

3. Declarations of interest

No declarations of interest were intimated at this stage of the proceedings.

4. Minutes of Previous Meetings

The Minute of Meeting of 24 November 2020 was submitted and approved as a correct record.

5. Reports

Agenda No	Report Title	Presented by:
5.1	Supplementary Guidance: Food And Drink and Other Non-Retail Uses in Town Centres.	Peter Arnsdorf
There was submitted a report dated 21 December 2020 by the Chief Officer Place seeking agreement to enable Planning officers to take an alternative position when determining applications for a hot food takeaway or an application with a hot food takeaway component to the one set out in the Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance in relation to the stated uses proximity to schools.		
Decision		
The Committee, having heard from the Planning Manager agreed, (a)To instruct officers to take an alternative approach to the 'within 400metres of a school restriction' set out in the guidance and instead impose a condition which limits hot food takeaway to 16.00 – 23.00 Monday to Friday when considering an application for a hot food takaway, or an application with a hot food takeaway component; and (b)To confirm that the above stated alternative position set out in recommendation (a) does not change the assessment of an application for a hot food takeaway or an application with a hot food takeaway component, against the other criteria, the non 'within 400metres of a school restriction' set out in the guidance.		
Action		
Planning Manager		

Agenda No	Report Title	Presented by:
5.2	Pre-application report regarding pre-application consultation for mixed use development including; business and employment uses (class 4, 5 and 6), Residential, hotel, residential institutions and ancillary Uses including retail, financial and professional Services, food and drink, non-residential institutions, Assembly and leisure and other infrastructure Including park and ride, and associated works at site EC3, West Straiton and Land North of Site EC3, Loanhead (20/00803/PAC)	Peter Arnsdorf
Outline of report and summary of discussion		
<p>There was submitted report, dated 21 December 2020 by the Chief Officer Place regarding the above application. The pre-application consultation was reported to Committee to enable Councillors to express a provisional 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 the development. The Committee heard the Planning Manager in amplification of the report during which he responded to Members' questions and comments.</p>		
Decision		
<p>The Committee agreed to note::</p> <p>(a) the provisional planning position set out within the report; and</p> <p>(b) that the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning Application.</p>		
Action		
Planning Manager		

Declarations of Interest
<p>Councillors Winchester, Parry and Imrie all declared a non-pecuniary interest in the aforementioned item of business as they had all been present at a meeting of a Community Council during which this proposal had been raised although none of them had expressed a view on the matter.</p>

Agenda No	Report Title	Presented by:
5.3	Application for planning permission (17/00408/DPP) for Residential development including park and ride; Allotments; Land safeguarded for possible education use; formation of access roads and car parking and associated works on land at Newton Farm, Old Craighall Road, Millerhill, Dalkeith	Peter Arnsdorf

Outline of report and summary of discussion
There was submitted report dated 13 November 2020 by the Chief Officer: Place regarding the above application advising that the purpose of this report was to request the Committee's approval of an amendment to a planning condition previously approved by the Committee, details of which were contained within the report. The Committee heard the Planning Manager in amplification of the report during which he responded to Members' questions and comments.
Decision
The Committee approved the proposed amendment to condition 4 of planning application 17/00408/DPP as detailed within the report
Action
Planning Manager

Agenda No	Report Title	Presented by:
5.4	Application for planning permission in principle 19/01018/PPP for redevelopment of existing Snowsports Centre to include additional leisure facilities, hotel, function suite, ancillary retail and restaurant uses, formation of access road and car parking at Midlothian Snowsports Centre, Biggar Road, Hillend.	Peter Arnsdorf
Outline of report and summary of discussion		
There was submitted report dated 13 November 2020 by the Chief Officer: Place with regard to the above application advising that there had been three letters of representation and consultation responses from Scottish Environment Protection Agency (SEPA), Historic Environment Scotland, NatureScot, Scottish Water, Sport Scotland, Transport Scotland, City of Edinburgh Council, the Council's Archaeological Advisor, the Council's Policy and Road Safety Manager, the Council's Environmental Health Manager, Damhead Community Council and Fairmilehead Community Council (Edinburgh). The Committee heard the Planning Manager in amplification of the report during which he responded to Members' questions and comments		
Decision		
The Committee agreed that planning permission be granted subject to the conditions as detailed within the report.		
Action		
Planning Manager		

Agenda No	Report Title	Presented by:
5.5	Application for planning permission 20/00630/DPP for Change of use of detached garage to food production Unit (class 4) (retrospective) at 19 Peacock Parkway, Bonnyrigg	Peter Arnsdorf

Outline of report and summary of discussion
<p>There was submitted report dated 21 December 2020 by the Chief Officer: Place with regard to the above application advising that the site was within a residential area of Bonnyrigg and comprised a detached garage associated with the dwellinghouse at 19 Peacock Parkway. The house and garage were under the ownership of the applicant. The residential plot comprised a detached two storey dwellinghouse, double garage and associated garden ground with two ancillary structures in the garden. It was proposed to change the use of the domestic garage to a food production unit. The food production business had been operating at the site since September 2020. The applicant stated they previously operated a restaurant and produced food in an industrial unit elsewhere. However these operations were closed earlier this year as a result of the COVID-19 pandemic. The applicant then began operating a frozen food delivery service from the application site. The applicant's business involved the making and freezing of food products within the garage and delivering these products to customers.</p> <p>The Committee heard the Planning Manager in amplification of the report during which he responded to Members' questions and comments.</p>
Decision
<p>The Committee agreed that planning permission be granted subject to a condition being applied that it would be for a period of 2 years with the situation being monitored throughout as a result of the ongoing Covid-19 pandemic.</p>
Action
<p>Planning Manager</p>

Exclusion of Members of the Public

In view of the nature of the business to be transacted, the Committee agreed that the public be excluded from the meeting during discussion of the undernoted item, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in paragraph 13 of Part I of Schedule 7A to the Local Government (Scotland) Act 1973:-

Agenda No	Report Title	Presented by:
6.1	Proposed Tree Preservation Order	Peter Arnsdorf
Decision		
<p>The Committee agreed to issue of a TPO to protect the identified tree and to receive a further report to consider confirming the TPO once the owner(s) of the land and other interested parties have had the opportunity to make comment.</p>		
Action		
<p>Planning Manager</p>		

6. Date of Next Meeting

The next meeting will be held on Tuesday 23 February 2021.

The meeting terminated at 1.38 pm.



DEVELOPMENT PLAN SCHEME FOR MIDLOTHIAN - NUMBER 13

Report by Chief Officer Place

1 PURPOSE OF REPORT

- 1.1 This report seeks approval for the Development Plan Scheme for Midlothian number 13 (DPSM13) and provides a short update on the implementation of the Planning (Scotland) Act 2019.

2 BACKGROUND

- 2.1 Preparation of the Development Plan Scheme (DPS) is a statutory requirement. Each year local planning authorities are required to prepare, publish and submit a DPS to Scottish Ministers setting out their intentions with respect to preparing, reviewing and consulting on the development plans for their area over the coming twelve months.

3 DEVELOPMENT PLAN SCHEME FOR MIDLOTHIAN

- 3.1 A DPS is required to contain:
- the proposed development plan programme (including the proposed timetable and details of what is likely to be involved at each stage of preparation or review); and
 - the participation statement (including an account of when and with whom consultation is likely to take place, its format and the steps to be taken to involve the public at each stage).
- 3.2 After approving a DPS, the authority is required to publish it (including electronically), place it on deposit in public libraries and send it to Scottish Ministers (though for information only). Consultation on the DPS is not required. The Planning (Scotland) Act 2019 will require formal consultation on participation statements in Development Plan Schemes, although regulations to give effect to this change have yet to be made. As in previous years, a question seeking views on the Council's proposed engagement activities is included in the DPS.
- 3.3 DPS13 proposes that the plan be prepared in accordance with the new regulations, which are still to be published, and using National Planning Framework 4 (NPF4) to provide strategic guidance because:
- The rejection of the proposed Strategic Development Plan/SESplan 2 (SDP2) means that SDP1 remains the adopted

SDP (June 2013) and the evidence base underpinning the plan is increasingly out of date;

- There is no guidance in SDP1 as to how the housing land requirements for the period 2024 – 2032 should be aggregated and distributed across the SESplan area;
- The declaration of a climate change emergency in Scotland (and by the Council) is likely to have land use planning policy implications and it would be advantageous to work with a strategic planning framework that takes this into account; and
- There is insufficient time to progress the review to Proposed Plan stage before the new regulations come into effect.

3.4 The preparation of DPSM13 has taken place in the context of the ongoing Covid-19 Pandemic and associated emergency restrictions. This has delayed the programmed implementation of the Planning (Scotland) Act 2019 (PSA19). It has also introduced additional uncertainty regarding the timing of the next MLDP review and the resources required to meet the new requirements of the Act.

3.5 Key elements of the DPSM13 programme and participation statement include:

- a revised timetable for preparing MLDP2 which aligns with the Government's latest programme for implementing the PSA19;
- a commitment to developing online engagement techniques for the duration of Covid-19 restrictions and a commitment to widening this out to other group/ face to face activities when safe to do so;
- collaboration with the Community Planning Climate Emergency Group to foster an exchange of policy ideas to deliver the objective of placing the Climate Emergency as a central theme of MLDP2;
- a commitment to re-start the programme of Key Agency liaison meetings, some of which had lapsed as a result of Covid-19 restrictions and emergency measures;
- publication of the Proposed MLDP2 in Q1 2024; and
- adoption of MLDP2 in Q1 2026.

3.5 On balance, the approach set out in DPS13 seeks to embody the least risk and uncertainty in taking forward the MLDP review. The Action Programme review process provides an additional mechanism and opportunity to reassess the adequacy of the housing and economic land supply and/or address any other emerging issues if required using the measures described in paragraph 2.3.9 of the adopted MLDP.

3.6 A copy of the DPSM13 is attached to this report.

4 PLANNING (SCOTLAND) ACT 2019 UPDATE

4.1 The PSA19 received royal assent in July 2019. In November 2019, Members considered a report on the Government's programme for implementing the new legislation and the changes affecting the review of the MLDP. Unfortunately, the Covid-19 pandemic has set back this

programme by about twelve months and the Scottish Parliamentary elections will also add further delay to this process.

- 4.2 Regional Spatial Strategies (RSS) are a new requirement of the PSA19 and in 2020 SESplan co-ordinated preparation of the first interim RSS (iRSS) for Edinburgh and South East Scotland. The RSS replaces the requirement for Strategic Development Plans and plays an important part of informing the preparation of the National Planning Framework. SESplan recently received feedback from the Government on the nature and content of the iRSS and is currently considering possible further amendments before the final submission to Government in April (it is worth noting that the Government feedback was generic and covered all the iRSS submitted across Scotland).
- 4.3 The impact of Covid-19 means that the draft NPF4 will not now be published until Autumn this year and adopted until Autumn 2022. This will influence the Council's decision on when to start the review of the MLDP and this changed timescale is reflected in the proposed DPSM13 and will be adjusted if/as required in subsequent DPSs. The NPF4 will set housing targets for each planning authority – a housing consultation paper from the Scottish Government has been published and is being considered by officers prior to reporting to elected members.
- 4.4 However, 2021 remains a key year in which the Government will seek to progress regulations in respect of the new development plan process. Consultations on Local Place Plans and new style Local Development Plans are anticipated before the Scottish Parliamentary Elections in May, followed by Masterplan Consent Areas post-election and the draft NPF4 in September 2021.

4 RECOMMENDATION

- 4.1 It is recommended that the Committee:
- (a) approves the Development Plan Scheme for Midlothian No.13 (appended to this report);
 - (b) agrees to publish the DPSM13 and, when safe to do so, place copies in all public libraries; and
 - (c) formally submit a copy to Scottish Ministers.

Peter Arnsdorf
Planning Manager

Date: 25 March 2021
Contact Person: Colin Davidson, Planning Officer
colin.davidson2@midlothian.gov.uk

Development Plan Scheme for Midlothian Number 13



April 2021



1. Introduction

1.1 This is the 13th **Development Plan Scheme** (DPS) for Midlothian. An earlier Development Plan Scheme (number 12) was presented to Planning Committee in February 2020, however this was overtaken by events associated with the Covid-19 pandemic. In the last year more of the Scottish Government's Transforming Planning agenda, which seeks to implement the Planning Scotland Act 2019, has emerged and is taken into account in this DPS.

1.2 DPS13 sets a new course for delivering development plans in Midlothian. This reflects the reformed planning system brought about by the 2019 Act, where the Fourth National Planning Framework forms part of the development plan and Strategic Development Plans are abolished.

1.3 Covid-19. The landscape of engagement and consultation has been completely changed by the Covid 19 pandemic. The overriding focus in DPS13 has been to ensure public safety. Implementation of future engagement activity will depend on the Scottish Government's route map out of the pandemic.

1.4 The Planning (Scotland) Act 2019 received Royal Assent in July 2019. The Act changes many features of the current system of development plans, including:

- removing the requirement to prepare Strategic Development plans
- removing provisions which allowed Supplementary Guidance to form part of the development plan
- making the Scottish Government's National Planning Framework part of the Development Plan
- introducing Regional Spatial Strategies to provide long term spatial development frameworks at regional level
- replacing Main Issues Reports with a new requirement to prepare an Evidence Report
- Changing the regulations to allow the Proposed Plan to be more of a consultative document
- Introducing a longer 10 year timescale for development plans, rather than 5 years at present
- Introducing potential for local communities to prepare new Local Place Plans

1.5 More information on the main changes introduced by the 2019 Act may be found in the report to Midlothian Council on 27 August 2019 (available through this link [2019 Act Committee Report](#)). The Scottish Government has stated that they will produce guidance regarding transitional arrangements. More information about the programme to implement the Act can be found on the Scottish Government website (available through this link [Scottish](#)

DPS 13

[Government planning reform](#)) At the time that this DPS was being prepared, the Scottish Government timetable envisages consulting on the details of the new development planning system in early 2021.

1.6 Scottish Government regulations will set out the requirements for community bodies in greater detail, in preparing their own **local place plans**, and for how those plans are handled through the planning system. These are also expected in early 2021.

1.7 After the 2021 Scottish Parliamentary elections, other aspects of implementing the Planning Act may be addressed. Transitional arrangements have been published [Transitional arrangements document](#), recognising that planning authorities are at different stages of plan preparation. As Midlothian is proposing to base its replacement LDP on NPF4 and the new regulations, the 'stop' provisions in the transition arrangements for old style plans 'started but not finished' will not apply.

1.8 The 2019 Act introduces new requirements to seek and have regard to any views expressed by the public as to the content of the participation statement: the regulations that give effect to this change are expected to come into force later in 2021. In advance of this becoming a formal requirement, Midlothian Council would like to know what you think of its proposed consultation arrangements, see the question 'HAVE YOUR SAY' at the end of section 5.

1.9 Fourth National Planning Framework for Scotland (NPF4). The NPF4, prepared by the Scottish Government will become part of Midlothian's development plan. Covid-19 has also affected the Scottish Government's schedule for the Fourth National Planning Framework for Scotland (the Government now expect to lay a draft before the Scottish Parliament in Autumn 2021, and to approve the final version in Spring or Summer 2022). This is reflected in the DPS13 timetable.

1.10 The Scottish Government has issued a position statement to inform further discussions. A consultation was underway until 21st February 2021, more details may be found through this link. [NPF4 Consultation](#)

1.11 To inform the preparation of development plans, the planning authorities in the South East Scotland area have prepared an **interim Regional Spatial Strategy**. This is not a document of equivalent weight to the Strategic Development Plan but sets a framework for the future development of the region - [iRSS link](#)

1.12 The DPS sets out the timetable for preparing the **Local Development Plan (LDP)**, and other related planning guidance. It also includes a **Participation Statement** which describes how and when you can get involved in the preparation of the plan. We will prepare a new Development Plan Scheme every year.

1.13 Status of Strategic Development Plan. In May 2019 the Scottish Ministers rejected the proposed Strategic Development Plan for South East Scotland (SDP2). Previous development plan timetables were based on SDP2 being approved in 2019. The first Strategic Development Plan (SDP1) and its associated supplementary guidance remains in force until publication of National Planning Framework 4 (NPF4) which is expected towards the end of 2022.

2. The Development Plan for Midlothian

WHAT DEVELOPMENT PLANS EXIST AT PRESENT IN MIDLOTHIAN?

The adopted development plan for Midlothian is provided by the Strategic Development Plan (SDP) for Edinburgh and South East Scotland 2013, and the Midlothian Local Development Plan (MLDP) 2017. The development plans may be viewed online by clicking on this link [Development Plans and Policies](#). When the COVID-19 emergency is over these may also be viewed in paper copy at any Midlothian library or at the Council's office at Fairfield House, Dalkeith.

WHAT DOES A DEVELOPMENT PLAN DO?

Development Plans allocate land for development and contain policies which will be used to assess applications for planning permission. They are also accompanied by an Action Programme which sets out how the plan will be delivered.

2.1 There are a number of ongoing tasks associated with the adopted MLDP. A revision of the current Action Programme (AP) has been prepared and issued for consultation. It is expected to be adopted by Midlothian Council later in 2021 when the Council has moved out of emergency mode for Coronavirus. The AP is a requirement of the Planning Act, and identifies the actions which will help implement the policies and proposals of the plan.

2.2 The Midlothian Local Development Plan requires Supplementary Guidance (SG) and planning guidance (pg) to be prepared. The Supplementary Guidance, once adopted has the same status as a policy in the plan (this will change when the 2019 Act takes effect, see below). Planning guidance has a lesser status but will be a useful aid to applicants and to decision making on development proposals. The table below shows the planned SG and pg, and progress at the start of 2021. Approved guidance and emerging guidance subject to consultation may be viewed online through the [Midlothian planning portal](#)

DPS 13

2.3 The Planning (Scotland) Act 2019 repeals those provisions of the 1997 Town and Country (Planning) Scotland Act which allowed SG to form part of the development plan, although there are transitional arrangements relating to this change.

2.4 The Transitional Arrangements for the new planning Act envisage that a period of 24 months after the coming into force of the development plan regulations, will be allowed for the adoption of supplementary guidance associated with local development plans adopted under the 2006 Act. After this point, no further supplementary guidance will be allowed to come forward for adoption. The Council will reflect on how the outstanding guidance is to be provided, in recognition of the fact that supplementary guidance will not be part of the new development plan system. The Council will have to consider if it wants to prepare and bring forward new supplementary guidance in association with the adopted local development plan, or put more emphasis on adopting LDP2.

Supplementary Guidance	Status
Midlothian Green Network (SG)	Adopted
Special Landscape Areas (SG)	Adopted
Resource Extraction (SG)	Adopted
Development in the Countryside and the Green Belt (SG)	Adopted
Food and Drink and Other non Retail Uses in Town Centres (SG)	Adopted
Advertisements (SG)	In preparation
Community Heating (SG)	In preparation
Flooding and Water Environment (SG)	In preparation
Low Density Rural Housing (SG)	In preparation
Planning Obligations and Affordable Housing (SG)	In preparation
Quality of Place (SG)	In preparation

Planning Guidance	Status
Dalkeith Shop Front Design Guide (PG)	Adopted

Planning Guidance	Status
Dalkeith Townscape Heritage Initiative (THI) Homeowners Guide: 'Repair and Maintenance of Historic Buildings in Dalkeith, Home Owners Guide' (PG)	Adopted
Hillend Country Park (PG)	The requirement for PG may be superseded by the planning application process.
Nature Conservation (PG)	Likely to be submitted to Committee for approval early 2021
Open Space Standards (PG)	Settlement wide analysis to support preparation of guidance completed.
Shop Front Design Guide (PG, for other town centres)	Guidance adopted for Penicuik, other towns to follow
Masterplans (for Ec3 and sites allocated in 2017 MLDP where not already commenced)	Interim draft prepared, likely to be submitted for consultation early 2021

2.5 Midlothian Council also carries out post adoption monitoring, looking at the performance of the plan, progress on implementing proposals, how policies are being interpreted and applied in determining planning applications, and the impact of the policies and proposals on a number of environmental factors. Regular liaison with the designated Key Agencies has continued where practicable during lockdown, although liaison with the NHS in particular has been disrupted while they respond to the pressing priorities.

3. Production of the Second MLDP

3.1 Following the decision of Scottish Ministers to reject the second Strategic Development Plan for Edinburgh and South East Scotland, the local authorities that make up the Strategic Development Planning Authority for Edinburgh and South East Scotland (SESplan) decided not to prepare a revised SDP.

3.2 As described in the introduction, The Planning (Scotland) Act 2019 makes significant changes to the system of development plans. It will abolish Strategic Development Plans and Strategic Development Plan authorities and make the National Planning Framework part of the development plan. A new system of Regional Spatial Strategies is to be introduced to consider land use planning matters which affect more than one planning authority. Before preparing a LDP Councils will be required to prepare an Evidence Report which will be the subject of a government gatecheck. The 2019 Act also introduces new Local Place Plans

DPS 13

which are described in the box at the end of this section. Many of these features of the new system require secondary legislation and additional guidance to give greater clarity as to how they will work.

3.3 The approved SDP covers the period through to 2032. However neither the SDP nor its associated supplementary guidance on housing land indicates how the housing land requirement for 2024-2032 should be distributed. The SDP itself was informed by a Housing Needs and Demand Assessment (HnDA) approved in 2011. The rejection of SDP2 has raised questions over the currency of the 2011 HnDA and introduced uncertainty over future housing land requirements in Midlothian and across South East Scotland. The declaration of a climate change emergency in 2019, and adoption of Midlothian's Climate Change strategy has further implications for land use planning. In addition the approval of the Edinburgh and South East Scotland City Region Deal has a spatial aspect, with implications for infrastructure and economic development across the region.

3.4 Midlothian Council proposes to carry forward its replacement LDP (MLDP2) under the new regulations to be established by the 2019 Act, and recognising that NPF4 will form part of the development plan rather than reverting to SDP1.

3.5 Midlothian Council is front loading work to inform the preparation of MLDP2 (table starting on page 10 indicates early activities carried out or in progress). This will assist in bringing MLDP2 to adoption as soon as possible after NPF4 is adopted. The MLDP2 will still be less than 5 years old by November 2022. Midlothian Council will use the Action Programme process to review implementation of the plan and in particular to assess the adequacy of the housing land supply (as described in paragraph 2.3.9 of the MLDP).

Activities carried out to support the Second Midlothian Local Development Plan

- Prepared biennial update of the Action Programme
- Commenced review of existing sites and suitability of previously submitted sites for allocation in LDP2
- Carried out regular liaison meetings with Key Agencies including discussion of policy review and infrastructure implications
- Carried out internal service liaison
- Used Midlothian Local Development Plan monitoring group to consider performance of existing policies and emerging issues (including policy gaps, redundant policies and required modifications)
- Published Housing Land Audit 2020 and Employment Land Audit 2020
- On-going collection of information to inform preparation of LDP2
- Participated in community planning events (including community planning workshops and community planning away day) to explain context of new Planning Act and changes in the approach to LDP2

- Prepared climate change strategy
- Working with the Climate Emergency Community Planning thematic group to place the Climate Emergency at the centre of the replacement Midlothian Local Development Plan.

The programme of activities will help Midlothian Council to move quickly to preparing an Evidence Report and a proposed LDP following approval of NPF4.

LOCAL PLACE PLANS

Local Place Plans have been introduced by Section 14 of the 2019 Planning Act. Formal guidance on how to prepare Local Place Plans is to be brought forward by the Scottish Government early in 2021 (this had not been published at the time of DPS13 preparation). They are plans relating to the development and change of use of land in a community. A Local Place Plan is not produced in isolation - it must have regard to the Local Development Plan for the area and the National Planning Framework.

Key duties on planning authorities in relation to Local Place Plans are:

- Publish an invitation to local communities to prepare Local Place Plans.
- Publish information on the manner and date by which such Local Place Plans are to be prepared in order to be taken into account in the preparation of the Local Development Plan.
- Provide information on the assistance that the authority may offer to communities wishing to produce a Local Place Plan.
- Maintain a register of Local Place Plans

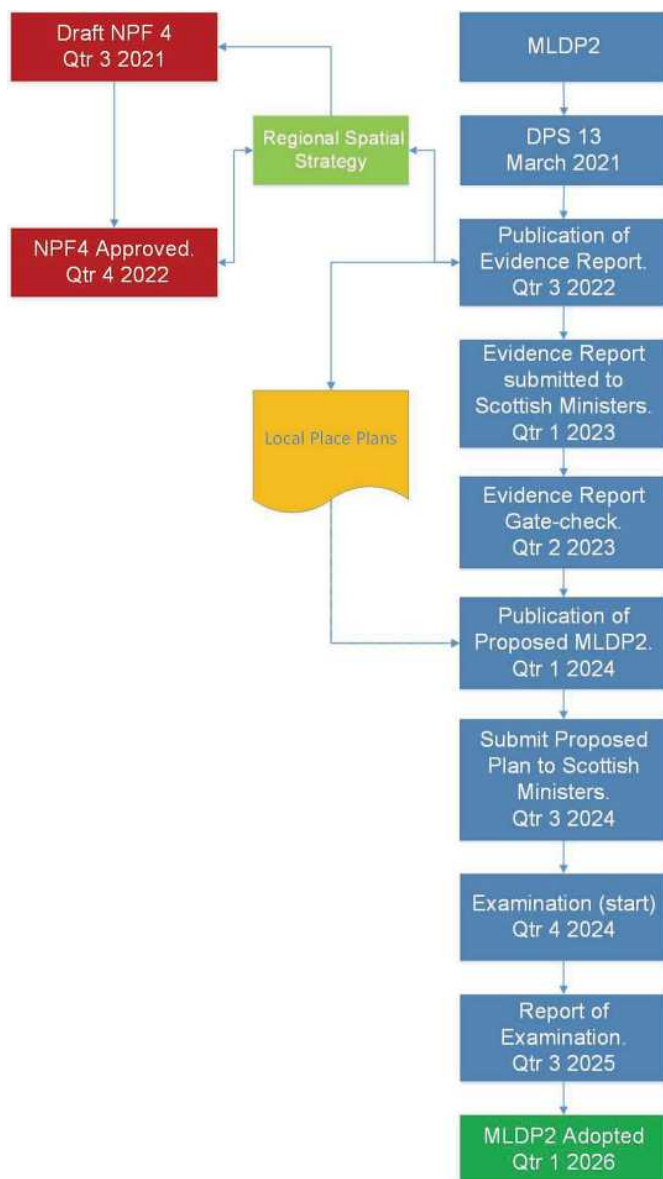
The Scottish Government will consult on proposals for local place plan regulations in 2021. Until more guidance is issued on the preparation of Local Place Plans the Council will work with its Community Planning Team and the Federation of Community Councils to raise awareness of LPPs and engage in a discussion about how LPPs may be progressed. It must be stressed that these will be the communities' plans, and the Council will not be leading this process.

In a future DPS, Midlothian Council will set out further information on the manner and timescale in which an LPP should be prepared in order to be taken into account in the preparation of MLDP2. Midlothian Council will maintain a register of valid LPPs and will also list these in future editions of the DPS.

DPS 13

When the further guidance on LPPs is issued (expected later in 2021), Midlothian Council will be in a better position to state what assistance it can offer to communities wishing to prepare a Local Place Plan. This will not preclude early engagement and discussion with communities about land use planning and place making.

4. Timetable for LDP2



5. Participation Statement

5.1 A Participation Statement sets out how, when and with whom the Council will consult and engage on its Development Plan. Independent planning Reporters will review the Council's engagement activities to see that they match what the Council said it would do in the Participation Statement. The timescale for activities may change depending on progress with NPF4 and secondary legislation associated with the Planning (Scotland) Act.

5.2 The Climate Emergency Community Planning Group has identified as one of its priorities *'Place the Climate Emergency as the Central theme of the Midlothian Local Development Plan. 2'*. More generally the Council recognises that there is widespread interest and knowledge in the community on a variety of topic areas which can be used to improve the next LDP.

5.3 Engagement is at its most effective at the early stages of plan preparation. Within the framework of the new planning system, the Council will seek to maintain open channels of communication so that a wide range of ideas on policy can be exchanged in advance of publication of the Proposed Plan.

Aims

- To raise awareness of Local Development Planning in Midlothian
- To design an approach to engagement that is as open and inclusive as possible
- To provide meaningful opportunities to shape the next LDP, allowing input to the plan before it is written

Our Approach

- To seek to use best practice, looking at the approach of other organisations including Planning Aid for Scotland
- Produce information across a variety of formats, including our website, consultation portal and social media, alongside traditional written material
- To work closely with neighbourhood planning and community planning partnerships
- To advise and assist communities in preparing Local Place Plans
- Develop relationships with the Key Agencies and other interested parties - we will explore the potential for co-production of parts of the second LDP

- Seek to continuously improve by carrying out annual review of our engagement activities
- Make information available as early as possible
- Use clear, plain language in all our material
- To ensure that events and materials are accessible as far as is practicable
- To consider all engagement activity in the context of the Councils public sector equality duty
- Use graphics and maps where appropriate
- Provide events in communities throughout Midlothian
- During the period where special arrangements for the Covid-19 pandemic are in place, to seek meaningful engagement opportunities which preserve public health.

5.4 A revised DPS may be brought out before April 2022 if the changing situation justifies it. Special Covid-19 arrangements are in place in 2021. Until the Covid restrictions are lifted all engagement activity will be carried out remotely and public gatherings will not be supported. We will investigate the practicality of holding the stakeholder meetings, including meetings with community councils using electronic conferencing tools. The planning Committee is now meeting online, and this format can be used to consider LDP2 member briefings.

Overview of proposed engagement activities for the second Midlothian Local Development Plan in period covered by DPS13 (2021-2022).

Activity	Description	What we plan to do	Timescale
Development Plan Scheme 13	Sets out Midlothian Council's programme for reviewing its development plans.	Publish online and distribute to Community Councils. Seek views on participation statement. When safe to do so place in libraries	April 2021

DPS 13

Overview of proposed engagement activities for the second Midlothian Local Development Plan in period covered by DPS13 (2021-2022).

Activity	Description	What we plan to do	Timescale
Early activities contributing to the second Local Development Plan.	Will set the context for MLDP2; outline requirements as they emerge from National Planning Framework and issues arising from adopted plan and committed development; seek contacts for future engagement; inform preparation of Evidence Report.	<p>Publish information online</p> <p>Promote online engagement and promote & encourage registration on consultation database</p> <p>Prepare stakeholder briefing</p> <p>Brief and involve elected members, including reporting to Planning Committee at key stages</p> <p>Carry out ongoing monitoring</p> <p>Prepare up to date Housing Land and Employment Land Audits</p> <p>Publish 1st review of Action Programme for LDP1 and commence information gathering for 2nd review.</p> <p>Regular discussions with Key Agencies, Community Planning</p>	Throughout 2021 (subject to lifting of Covid 19 restrictions)

Overview of proposed engagement activities for the second Midlothian Local Development Plan in period covered by DPS13 (2021-2022).

Activity	Description	What we plan to do	Timescale
		<p>Partnership and other Council services.</p> <p>Attend events with Community Planning partners regarding new LDP, and raise awareness of Local Plan Plans.</p> <p>Develop and deliver events using the place standard tool (subject to lifting of Covid-19 restrictions).</p> <p>Monitor and contribute to the Scottish Government's 'transforming planning process' and National Planning Framework 4.</p> <p>Work with the Climate Emergency Community Planning Group to allow exchange of policy ideas to deliver the objective of placing the Climate</p>	

DPS 13

Overview of proposed engagement activities for the second Midlothian Local Development Plan in period covered by DPS13 (2021-2022).

Activity	Description	What we plan to do	Timescale
		Emergency as the Central Theme of LDP2.	
Regional Spatial Strategy	The Regional Spatial Strategy (RSS) is a long term spatial strategy in respect of the development of an area. The LDP must have regard to any adopted RSS.	Midlothian Council will work with the other SESplan authorities to prepare the RSS.	Interim RSS prepared and submitted to the Scottish Government as an input to NPF4. Midlothian will work with the other SE Scotland authorities to consider 'refreshes' and updates to the document.

LOOKING AHEAD TO THE EVIDENCE REPORT AND LATER STAGES IN THE PLAN

The programme diagram above envisages publication of the Evidence Report in the 3rd quarter of 2022 and the Proposed Plan at the start of 2024.

The Evidence Report (EvR) will set out the Council's view on the characteristics of the area including the capacity of infrastructure and the need for additional development land. This is a key consultation stage under the 2019 Act. After consultation, and following any changes, the Council will submit the EvR to Scottish Ministers, who will appoint a person to determine whether it contains sufficient information to enable the authority to prepare the plan.

Given the current uncertainty with lifting of pandemic restrictions there is still uncertainty as to the range of engagement activities in respect of the Evidence Report and Proposed Plan but we will instead consider views received in response to this DPS. Future participation statements will be able to address the engagement requirements with greater certainty. The engagement activities for the Evidence Report are likely to include:

DPS 13

- Publication online for consultation and (when safe to do) place paper copies at libraries and Council office.
- Advertise publication to inform stakeholders how, where and when document may be viewed.
- Encourage engagement and feedback on EvR through scheduled drop in events, discussions with stakeholders and social media activity.
- Brief and involve elected members, including reporting to Planning Committee.
- Distribute to Community Councils and hold event to discuss EvR.
- Meet and discuss issues with stakeholder groups expressing interest/concern on request.
- Prepare tailored consultation activities to seek views of those groups named in the Planning (Scotland) Act 2019 in relation to preparation of EvR (viz. disabled persons, gypsies and travellers, children and young people).
- Hold structured workshop or 'charrette' events to look at places and topics in greater detail. These may also use the 'Place Standard' tool
- Raise awareness through email 'mailshot' to customer database inviting comments/feedback, (including use of online surveys/opinion polls), local media releases, raise awareness among Council staff: publish articles in e-staff newsletter.

THE PROPOSED PLAN

Under the new planning system introduced by the 2019 Act, it remains the case that the Proposed Plan represents the plan that the Council proposes to adopt. However, there is provision under the 2019 Act to make modifications after the representation period, before submitting to Scottish Ministers. Any unresolved representations will be considered by an independent planning reporter as part of an examination of the plan at a later date. Engagement activities are likely to comprise.

- Publish proposed plan online for consultation.
- Place paper copies in libraries and at Council HQ
- Advertise publication to inform stakeholders how, where and when document may be viewed.
- Encourage engagement and feedback on proposed plan through scheduled drop in events, discussions with stakeholders and social media activity.
- Distribute to Community Councils and hold event to discuss proposed plan
- Prepare tailored consultation activities to seek views of children and young people.
- Send email 'mailshot' to customer database inviting comments/feedback
- Prepare local media releases

DPS 13

MAKING SURE EVERYONE IS INVOLVED

The 2019 Planning (Scotland) Act introduces a particular requirement to consult with disabled persons, gypsies and travellers, and children & young people on the Evidence Report. A planning authority must also make arrangements that they consider appropriate to promote and facilitate participation by children and young people in the preparation of the LDP.

There is also a public sector equality duty established in the Equality Act 2010. This includes a requirement for public authorities in the exercise of their functions to advance equality of opportunity between people who share a relevant protected characteristic and those who do not. In preparing the first MLDP the Council prepared an Equality Impact Assessment (EqIA), which assessed the impact of the plan on the identified protected characteristics groups (which include age, disability, and race - including gypsies and travellers).

The EqIA approach was useful as it involved systematic assessment of the plan in respect of the protected groups to ensure there was no disadvantage and that opportunities were not missed. The EqIA also considered the approach to consultation and engagement. Midlothian Council will repeat the EqIA process for MLDP2. The participation statement requires tailored consultation for targeted groups: as we draw nearer to the Evidence Report in 2022 we will provide further detail on how this will be carried out.

Question 1**HAVE YOUR SAY**

What is your view of our planned consultation activities? Please let us know if you have any suggestions to improve engagement

If you are viewing the DPS as a paper copy and you wish to respond to the question above, you can use the contact details below.

CONTACT US

If you have any questions about the Local Development Plan or this Development Plan Scheme, please get in touch.

by email: ldplan@midlothian.gov.uk

by writing: Midlothian Council Planning, Fairfield House, 8 Lothian Road, Dalkeith, EH22 3AA

During the period of the Covid-19 pandemic the planning office is not always continually staffed during office hours, so we advise that you email or write in this interim period. Once more normal circumstances return we will restore the option of phoning the planning office.

6. Register an interest

Are you interested in being involved in the second Midlothian Local Development Plan?

Follow this link to register as an interested party in the Second Midlothian Local Development Plan.

[Link to register as a consultee or agent with Midlothian Council](#)

Once we have your contact details we can send you information about events, documents for comment and keep you informed about progress with the MLDP.

COMMUNICATING CLEARLY

We are happy to translate on request and provide information and publications in other formats, including Braille, tape or large print.

如有需要我們樂意提供翻譯本，和其他版本的資訊與刊物，包括盲人點字、錄音帶或大字體。

Zapewnimy tłumaczenie na żądanie oraz dostarczymy informacje i publikacje w innych formatach, w tym Braillem, na kasecie magnetofonowej lub dużym drukiem.

ਅਸੀਂ ਮੇਰਾ ਕਰਨ ਤੇ ਖੁਸ਼ੀ ਨਾਲ ਅਨੁਵਾਦ ਅਤੇ ਜਾਣਕਾਰੀ ਤੇ ਹੋਰ ਰੂਪਾਂ ਵਿੱਚ ਪ੍ਰਕਾਸ਼ਨ ਪ੍ਰਦਾਨ ਕਰਾਂਗੇ, ਜਿਨ੍ਹਾਂ ਵਿੱਚ ਬਰੇਲ, ਟੇਪ ਜਾਂ ਵੱਡੀ ਛਪਾਈ ਸ਼ਾਮਲ ਹਨ।

Körler için kabartma yazılar, kaset ve büyük nüshalar da dahil olmak üzere, istenilen bilgileri sağlamak ve tercüme etmekten memnuniyet duyuruz.

اگر آپ چاہیں تو ہم خوشی سے آپ کو ترجمہ فراہم کر سکتے ہیں اور معلومات اور دستاویزات دیگر شکلوں میں مثلاً بریل (ناپیدا افراد کے لیے) انجریس ہوئے حروف کی لکھائی میں، نیپ پر یا بڑے حروف کی لکھائی میں فراہم کر سکتے ہیں۔



PLANNING GUIDANCE: NATURE CONSERVATION

Report by Chief Officer Place

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek agreement to the adoption of the Midlothian Nature Conservation Planning Guidance (a copy of which is attached to this report).

2 BACKGROUND

- 2.1 At its meeting of 7 November 2017 the Council adopted the Midlothian Local Development Plan 2017 (MLDP). The MLDP included a commitment to prepare Supplementary Guidance and Planning Guidance on a number of topic areas (Section 7.2, pages 81 and 82 of the MLDP). Additional guidance is required to provide further detail and interpretation of the policies and strategy set out in its development plan. One of the topic areas that needs further clarification is with regard to nature conservation, to provide details of the international, national and local nature conservation sites and matters for consideration in the formulation of, or assessment of, development proposals potentially affecting nature conservation sites.
- 2.2 Planning authorities may issue non-statutory Planning Guidance without going through the formal statutory procedures for Supplementary Guidance, which include undertaking public consultation. Unlike Supplementary Guidance, Planning Guidance does not form part of the development plan but the Council's adoption of it will give it weight in planning decisions.
- 2.3 This guidance has not been, and is not proposed to be, subject to public consultation because it provides information and advice rather than policy guidance. Specialist advice was sought from NatureScot (formerly Scottish Natural Heritage), The Wildlife Information Centre (TWIC) and the Scottish Wildlife Trust on the draft guidance to ensure it is clear and accurate.

Departure from the European Union (EU)

- 2.4 Although the United Kingdom has left the European Union, the Scottish Parliament passed legislation to ensure that Scotland's nature assets

will remain protected to the same standard as pre departure from the EU. Furthermore, in the future, the Scottish Government has committed to maintain, or exceed, European Union environmental standards.

- 2.5 NatureScot has stated “Natura sites” (sites that have international level protection) will become known as “European sites”. According to NatureScot these sites represent the very best of Scotland's nature and include sites with internationally important or threatened habitats and species. The term “European sites” reflects their original designation under European legislation. The sites protect species and habitats that have an international dimension and form part of a network across Europe.
- 2.6 There are three “European sites” in Midlothian. These are one Special Area of Conservation (SAC) at Peeswit Moss, north-west of Gladhouse Reservoir, and two Special Protection Areas (SPA). One at Gladhouse Reservoir and another at Fala Flow.
- 2.7 In Scotland SACs and SPAs are given legal protection by The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended).

3 NATURE CONSERVATION PLANNING GUIDANCE

- 3.1 The Nature Conservation Planning Guidance provides details of the statutory and non-statutory conservation sites in Midlothian. It also explains the process for designating new Local Biodiversity Sites and the structure and role of the Midlothian Biodiversity Steering Group. It sets out that once the Steering Group has identified a site as a Local Biodiversity Site, Midlothian Council recognises the site as a designated site.
- 3.2 The purpose of the guidance is to help developers and other interested parties to identify the wildlife and habitat considerations that should inform development proposals. It provides a summary of the implications of international, national and local designated sites and species protected by law. It also outlines Midlothian Council's expectations for the consideration of wildlife and habitats by applicants from initial site appraisals to post construction considerations.
- 3.3 The final section of the guidance outlines the Council's expectations in terms of creating nature friendly development. This means retaining existing features such as ponds, wetlands, hedgerows, trees and woods, and joining them up with wildlife rich gardens, verges, amenity greenspace, cycle paths and footways. The following actions are therefore encouraged:
 - The inclusion of a wide variety of nectar rich planting in new developments, greenspaces and along active travel routes. Native species are preferred to non-native species. The aim is to provide a range of nectar sources year round, including night scented

plants, to support a variety of pollinator species including butterflies, bumblebees and hoverflies;

- A variety of homes for wildlife including bird (e.g. swift) boxes, bat boxes, hedgehog hibernacula, amphibian hibernacula, bug hotels and brash piles should be provided as an integral part of landscaping scheme in locations suitable for the relevant species;
- The creation and management of wildlife homes and routes as part of new developments, ensuring connections are made to neighbouring areas to provide opportunities for wildlife to move around;
- All boundary treatments should be permeable to small mammals. Hedges are the preferred option, but where fences or walls are required, mammal holes or tunnels should be provided to support the movement of wildlife;
- The maintenance of existing, and the creation of new, ponds and wetlands, including sustainable urban drainage system (SUDS) ponds designed to enhance biodiversity and maximise the use of wet meadow grassland in drainage features, wherever possible;
- Increase the canopy cover in urban areas through appropriate tree planting;
- Protect and enhance existing hedgerows and create new native hedgerows within new developments;
- Integrate green walls, green roofs and green screens (for example ivy screens) into new development where possible; and
- Amenity grassland should incorporate rich meadow grassland species managed with a low impact-mowing regime.

4 STRATEGIC ENVIRONMENTAL ASSESSMENT

- 4.1 All Scottish public bodies and a few private companies operating in a 'public character' (e.g. utility companies) within Scotland are required to assess, consult and monitor the likely impacts of their plans, programmes and strategies on the environment. This is known as a Strategic Environmental Assessment (SEA) process.
- 4.2 As required by the Environmental Assessment (Scotland) Act 2005, screening for likely significant environmental effects from the Planning Guidance was undertaken with the Consultation Authorities - SEPA, NatureScot and Historic Environment Scotland. The Consultation Authorities agree with the Council's opinion that the guidance does not trigger a requirement for a SEA.
- 4.2 The Council is now in a position to make a formal determination that no detrimental environmental effects are likely because of the guidance, thereby exempting the Planning Guidance from any requirement for a SEA. The adoption of the Planning Guidance cannot take place until; the SEA determination has taken place; and, 14 days have lapsed from advertising the SEA decision in a local paper and copying it to the consultation authorities.

5 RECOMMENDATION

5.1 The Committee is recommended to:

1. Note the content of this report and agree to the adoption of the Nature Conservation Planning Guidance (subject to the SEA process as per recommendation 2);
2. Instruct the Planning Manager to undertake the required notification/advertisement advising that the Nature Conservation Planning Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment; and
3. Authorise the Planning Manager to make any necessary minor editing and design changes to the Planning Guidance prior to publication.

Peter Arnsdorf
Planning Manager

Date: 25 March 2021

Report Contact: Grant Ballantine, Lead Officer Conservation and Environment grant.ballantine@midlothian.gov.uk

Attached: Nature Conservation Planning Guidance

Contents

1. Introduction	1
2. Designated Sites – Statutory	2
3. Local Biodiversity Sites	8
4. Protected Species	13
5. Ecological Assessment and Mitigation	15
6. Licensing Requirements	20
7. Nature Friendly Development	22

Appendices

1. Key Legislation	23
2. List of Designated Sites	25
3. Initial Site Survey Checklist	27

1. Introduction

1.1 This guidance provides details of the statutory and non-statutory nature conservation sites in Midlothian and explains the process for identifying and designating potential new Local Biodiversity Sites. It also provides information on potential wildlife and habitat requirements, constraints and opportunities for new development.

1.2 The purpose of this guidance is to help developers and others to identify the wildlife and habitat considerations, which should inform development proposals. Links to further sources of detailed information are provided, but this is not a definitive guide to all wildlife and habitat matters, therefore expert advice should be sought wherever necessary.

1.3 Although the United Kingdom has left the European Union, the Scottish Parliament passed legislation to ensure that Scotland's nature will remain protected to the same standard as before. In addition, in the future, the Scottish Government has committed to maintain or exceed European Union environmental standards.

1.4 NatureScot (formerly Scottish Natural Heritage) has stated that “Natura sites” will become known as “European sites”, and represent the very best of Scotland's nature. These sites protect species and habitats shared across Europe, and the term “European sites” reflects that they were originally designated under European legislation. The sites include internationally important or threatened habitats and species.

1.5 European sites are made up of Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). SACs are designated under the Habitats Directive (EC Habitats Directive (92/43/EEC)) for habitats and non-bird species. SPAs are classified under the Birds Directive (EC Wild Birds Directive (2009/147/EC)) to protect birds that are rare or vulnerable in Europe as well as all migratory birds that are regular visitors.

1.6 In Scotland SACs and SPAs are given legal protection by the Habitats Regulations – these are The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). The Habitats Regulations in Scotland set out how these European sites, SACs and SPAs, should be protected. The Habitats Regulations transpose the European directives into domestic law.

1.7 European sites were originally designated under two of the most influential pieces of European legislation relating to nature conservation, and continue to be designated under domestic law:

- The Conservation (Natural Habitats, &c.) Regulations 1994 – as amended (Current Scottish legislation); and
- Habitats Directive (92/43/EEC) and Birds Directive (2009/147/EC) (both European Union legislation).

2 Designated Sites - Statutory

2.1 There are a number of designated sites within Midlothian that carry statutory protection at the European, national (UK and Scottish) and local levels. There are also locally important non-statutory sites that are designated and protected through the [Midlothian Local Development Plan](#) (MLDP 2017). Policies ENV 12 to ENV 15 of MLDP 2017 seek to ensure that protected habitats and species are considered appropriately when determining relevant planning applications. Key legislation is summarised in Appendix 1. A list of internationally, nationally and locally designated sites in Midlothian is provided in Appendix 2.

Internationally Important Sites

2.2 Sites in Midlothian designated for their international importance are shown in Figure 1. They have protection under European, United Kingdom and Scottish law and are commonly known as European sites. They comprise of:

- Special Areas of Conservation (SAC) which have been designated for their habitats and species under the EC Habitats Directive (92/43/EEC). The only SAC in Midlothian is Peeswit Moss SAC, north-west of Gladhouse Reservoir.
- Special Protection Areas (SPA) which have been designated for their bird species under the EC Wild Birds Directive (2009/147/EC). There are two SPAs in Midlothian – Gladhouse Reservoir and Fala Flow. Both of these sites are also Ramsar sites, classified under the Convention on Wetlands of International Importance.

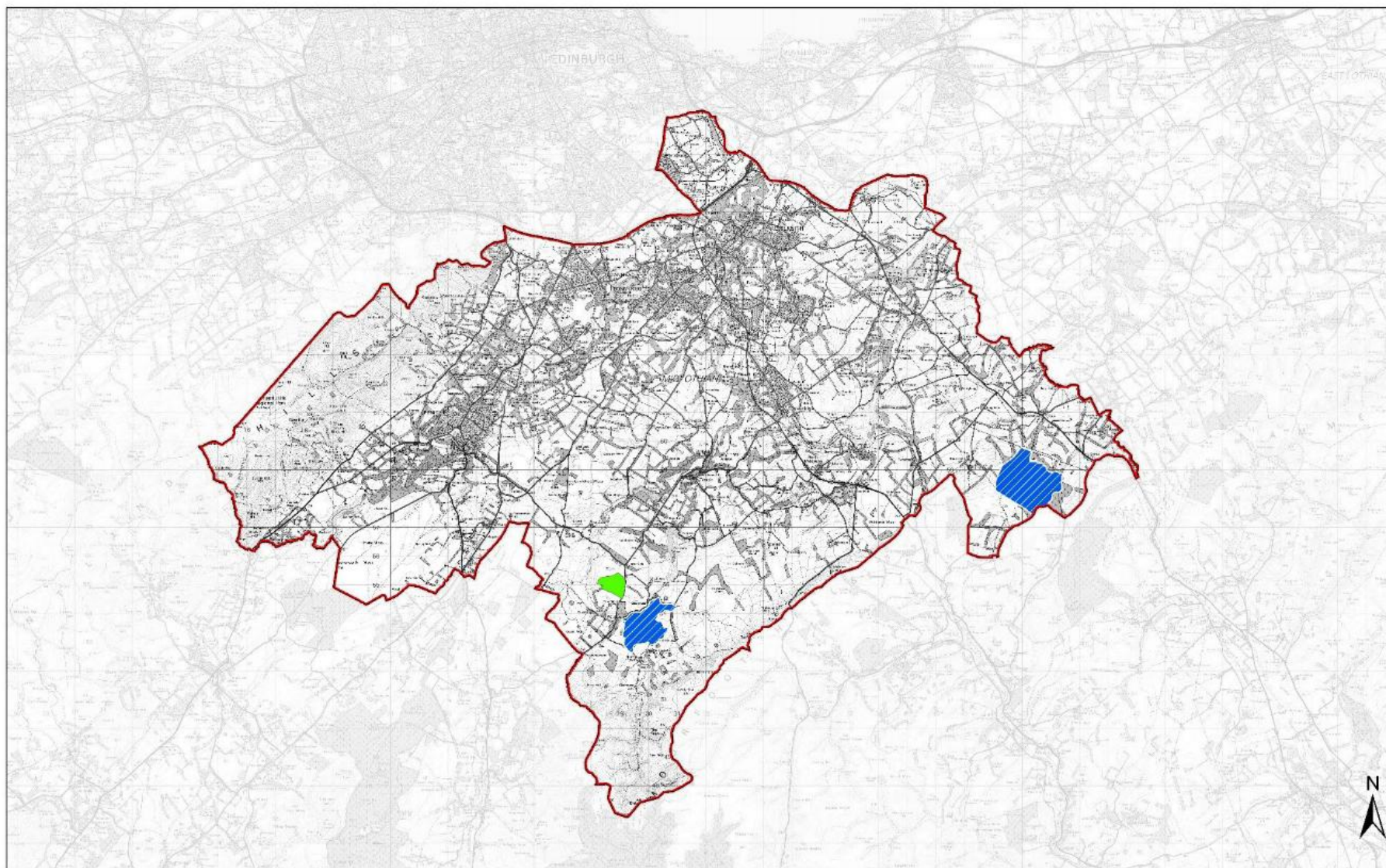
[Policy ENV 12 Internationally Important Nature Conservation Sites of the Midlothian Local Development Plan 2017](#) provides planning policy protection for these sites in addition to international and national legislative and policy protection.

Habitats Regulations Appraisal (HRA)

2.3 When a developer considers a particular site for development, they must establish early on whether any future development could impact on a European site. Where there may be a possible effect on a European site, the requirements of the Conservation (Natural Habitats etc.) Regulations 1994 (as amended) apply. Proposals do not need to be within a European site to affect its conservation interests. Consideration must be given to any plan or project that has the potential to affect a European site, no matter how far away the site is from the proposed development. Therefore, proposals in Midlothian may need to consider effects on potential nature conservation designations outwith Midlothian.

2.4 Under the Habitats Regulations (the term for the Conservation (Natural Habitats etc.) Regulations 1994 (as amended)), all competent authorities must consider whether any plan or project will have a “likely significant effect” on a European site. If so, they must carry out an “appropriate assessment”. This is known as Habitats Regulations Appraisal (HRA). A competent authority includes “any Minister,

Figure 1: Sites Designated for their International Importance - SAC (green) and & SPA/Ramsar (blue)



government department, public or statutory undertaker, public body of any description, or person holding a public office”. Local authorities are competent authorities in regard of planning applications. A competent authority must not authorise a plan or project unless it can show beyond reasonable scientific doubt, using appropriate assessment, that the plan or project will not adversely affect the integrity of a European site.

2.5 If a plan or project could affect a European site, either directly or indirectly, the applicant will need to provide sufficient information to allow Midlothian Council to determine whether there will be a Likely Significant Effect. If the Council concludes that there would be a Likely Significant Effect, the applicant will need to provide Midlothian Council with the information to enable it to carry out an appropriate assessment.

2.6 The word ‘likely’ in Likely Significant Effect should not be interpreted as ‘more probable than not’ but rather that the proposal is capable of having an effect on the European site and that this requires further consideration. Significance may be different for different sites so each case will be judged on its own merits.

2.7 In this situation, the plan or project can only be consented if it can be ascertained through appropriate assessment that it would not adversely affect the integrity of the European site. The competent authority (in this case Midlothian Council) must ensure that the requirements of the Conservation (Natural Habitats etc.) Regulations 1994 (as amended) are met before undertaking or permitting any project. If appropriate assessment is required, advice should be sought from NatureScot.

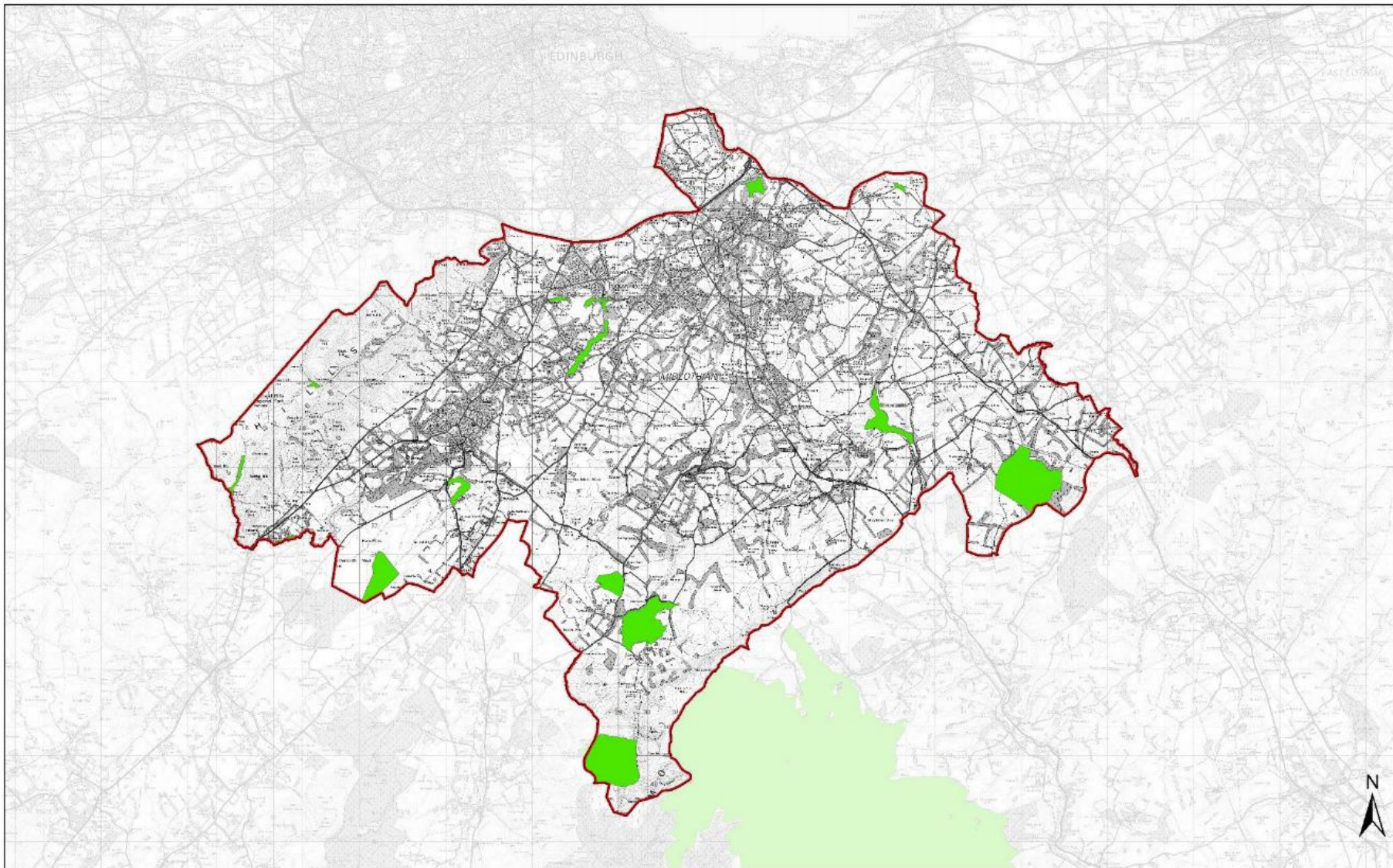
2.8 More information on HRA can be found at [NatureScot](#).

Nationally Important Sites

2.9 Nationally designated sites in Midlothian are shown in Figure 2. They include Sites of Special Scientific Interest (SSSIs) which are notified for the special interest of their habitats, flora, fauna, geology or geomorphology. There are 16 SSSIs in (or partly in) Midlothian:

- Auchencorth Moss
- Bilston Burn
- Black Burn
- Carlops Meltwater Channels
- Crichton Glen
- Dalkeith Oakwood
- Dundriech Plateau
- Fala Flow (*also a Special Protection Area*)
- Gladhouse Reservoir (*also a Special Protection Area*)
- Habbies Howe – Logan Burn
- Hadfast Valley

Figure 2: Sites of Special Scientific Interest



- Hewan Bank
- Keith Water
- North Esk Valley
- Peeswit Moss (*also a Special Area of Conservation*)
- Roslin Glen

2.10 As stated in [MLDP 2017 Policy ENV 14 Nationally Important Nature Conservation Sites](#), development which would affect a nature conservation site of national importance, or any site which is proposed or designated as being of national importance during the lifetime of the Plan, will not be permitted unless it can be demonstrated that:

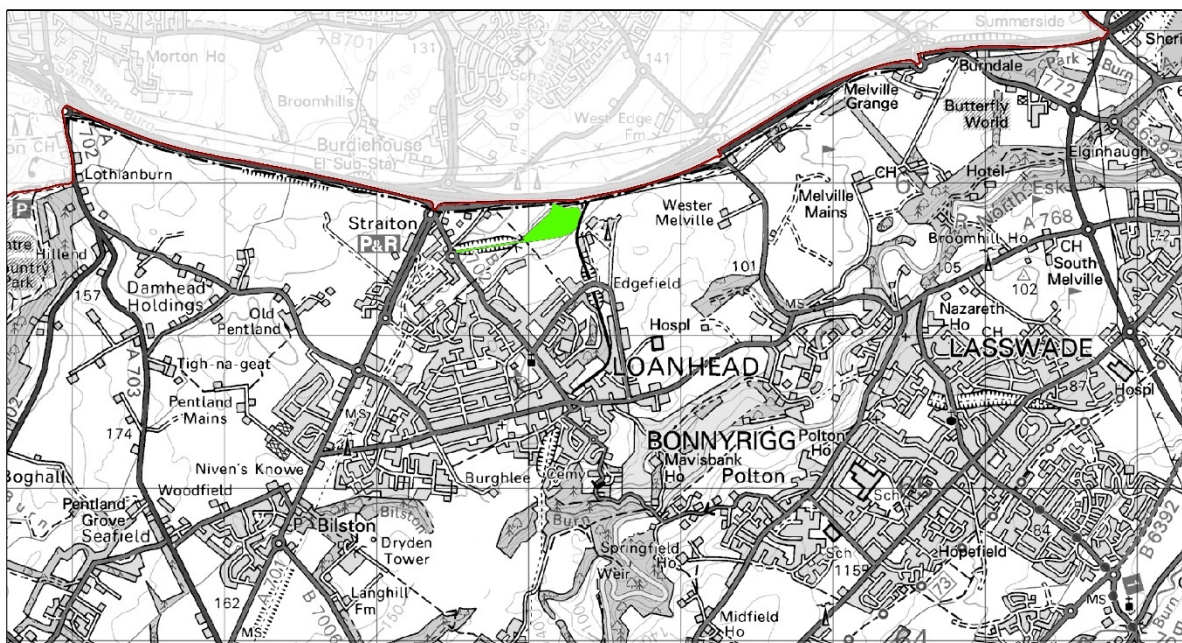
- The objectives of the designation and the overall integrity of the area will not be compromised, or
- Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance arising from the development.

The only sites of national importance currently designated in Midlothian are SSSIs. Midlothian does not currently have any National Nature Reserves, National Scenic Areas or National Parks.

Locally Important Sites

2.11 Local Nature Reserves are areas of natural heritage that are locally important, and have been selected and designated by a local authority under the [National Parks and Access to the Countryside Act 1949](#). Midlothian has one Local Nature Reserve – Straiton Pond (see Figure 3).

Figure 3: Local Nature Reserve



2.12 As stated in [MLDP Policy ENV13 Regionally and Locally Important Nature Conservation Sites](#), development which could affect the nature conservation interest of any sites or wildlife corridors of regional or local conservation importance, or any other site which is proposed or designated as of regional or local importance during the lifetime of the Plan, will not be permitted unless the applicant can show that:

- The development has been sited and designed to minimise damage to the value of the site and includes measures that will appropriately compensate for any damage which cannot be avoided; or
- The public interest (including those of a social or economic nature) to be gained from the proposed development can be demonstrated to clearly outweigh the nature conservation interest of the site.

3 Local Biodiversity Sites

3.1 The biodiversity value of Midlothian is also recognised and safeguarded at the local level through a system of non-statutory designation of Local Biodiversity Sites (LBS). The Midlothian LBS system was established in 2008 following the recommendations in the [Guidance on Establishing and Managing Local Nature Conservation Site Systems in Scotland](#) (2006). Since the Midlothian LBS system was established over 60 sites have been designated (see Figure 4 and Appendix 2). These sites have been identified to support national and local priorities, and to support features of local character and distinctiveness.

3.2 In addition to designated Local Biodiversity Sites, there are also a small number of proposed Local Biodiversity Sites (pLBS). These are sites considered to have some merit as a LBS but have not yet been formally assessed and designated. The status as pLBS does however provide protection through the policies of the Midlothian Local Development Plan 2017.

3.3 As stated in [MLDP 2017 Policy ENV14 Regionally and Locally Important Nature Conservation Sites](#), development which could affect the nature conservation interest of any sites or wildlife corridors of regional or local conservation importance, or any other site which is proposed or designated as of regional or local importance during the lifetime of the Plan, will not be permitted unless the applicant can show that:

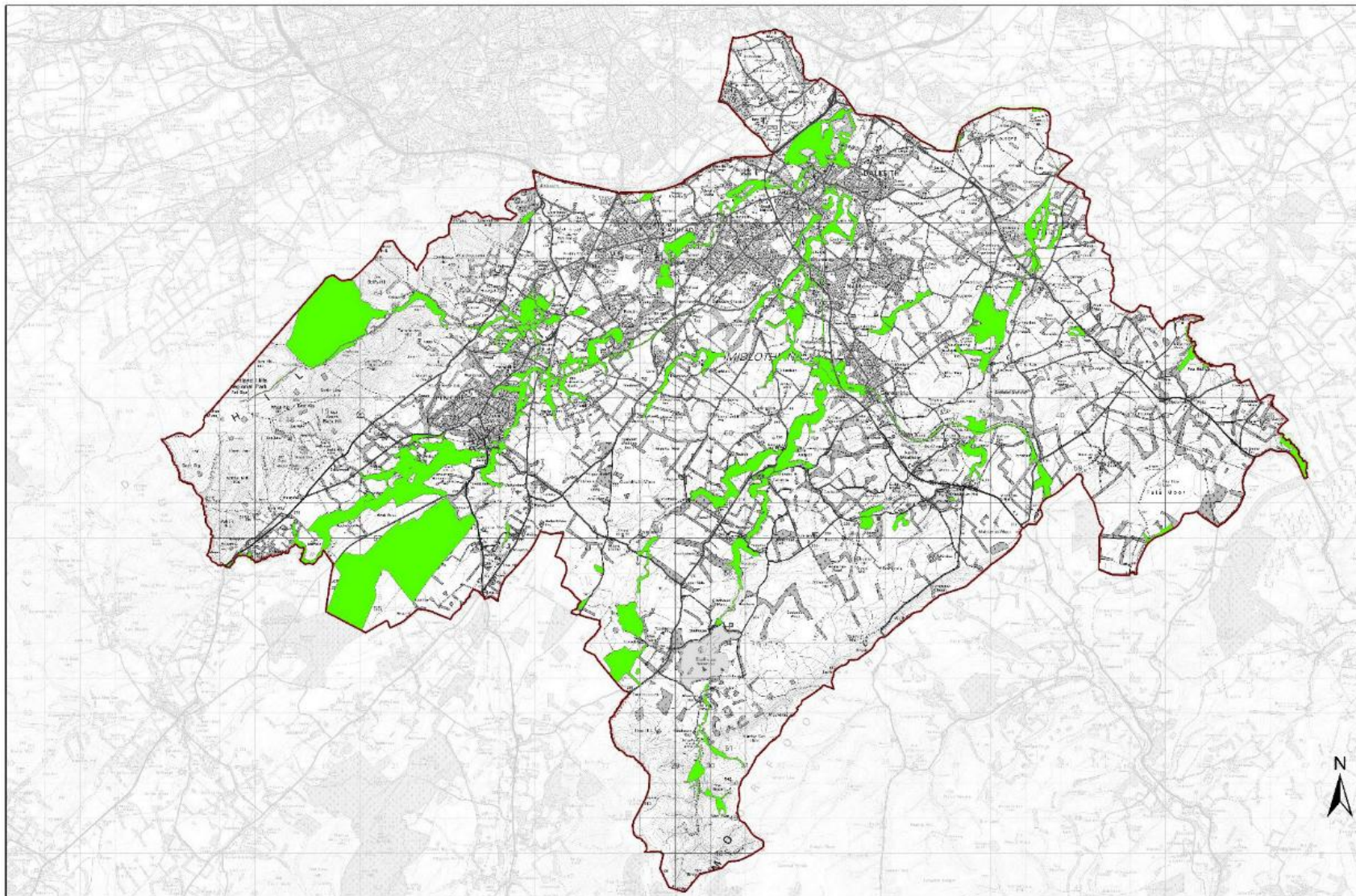
- The development has been sited and designed to minimise damage to the value of the site and includes measures that will appropriately compensate for any damage which cannot be avoided; or
- The public interest (including those of social or economic nature) to be gained from the proposed development can be demonstrated to clearly outweigh the nature conservation interest of the site.

Local Biodiversity Site Designation

3.4 The methodology used for assessing potential Local Biodiversity Sites and reviewing designated sites was developed by the Council in partnership with The Wildlife Information Centre (TWIC) and the Local Biodiversity Site Steering Group. The methodology contains criteria for assessing the biodiversity value of sites, and incorporates social factors into the assessment.

3.5 The Local Biodiversity Site Steering Group oversees the identification of site selection criteria, site selection and the review and monitoring of designated sites. The Steering Group is chaired by an officer of Midlothian Council. Other members include a representative from TWIC and recognised experts in different aspects of biodiversity in Midlothian and the Lothians.

Figure 4: Local Biodiversity Sites and Potential Local Biodiversity Sites



3.6 Potential Local Biodiversity Sites (pLBS) are identified in the following ways:

- Identification as part of a review and assessment of available data or survey work;
- Identification of potential sites by TWIC as a result of data collated, surveyed and assessed by them; or
- A proposal by Midlothian Council, TWIC or another member of the LBS Steering Group.

Proposing a Local Biodiversity Site

3.7 Site proposals are initially assessed by the Chair of the Steering Group, with advice from TWIC, to identify which sites should progress to formal assessment. The Steering Group will be consulted on what, if any, additional information such as survey work is required. If there is potential for the site to be designated as a Local Biodiversity Site it will be added to the list of proposed sites (pLBS). Where sites are not taken forward, the reasons will be explained. Records of all proposed sites are retained by TWIC. As stated in paragraph 3.3 of this guidance, sites listed as proposed LBS will be afforded protection through policy ENV 14 Regionally and Locally Important Nature Conservation Sites of the Midlothian Local Development Plan (2017).

Site Survey and Collation of Data Prior to Assessment of Proposed Sites

3.8 Existing data on potential sites will be collated by TWIC and, provided that sufficient data is available, an assessment will be made by them. For an assessment to take place there must be a recent (created in last 5 years) plant list. Additional species records are also valuable. Additional habitat data, where available either from a local biodiversity site survey, National Vegetation Classification (NVC) or other sources, will be used to complement the Phase 1 Habitat data for Midlothian¹. Where there is insufficient data, the site will require survey prior to assessment. Surveying of proposed sites will be prioritised by the LBS Steering Group according to available resources.

3.9 Site surveys commissioned for proposed sites should follow the methodology agreed by the Steering Group. The survey methodology is available from Midlothian Council. In brief, where Local Biodiversity Site surveys are commissioned they should include:

- Establishing site boundaries;
- A Phase 1 Habitat Survey;
- Target notes on key features including the presence of protected species; and
- A botanical survey of the site and other species recording.

¹ The Phase 1 survey provides a record of the semi-natural vegetation and wildlife habitat across an area. The habitat classification is based broadly on vegetation, augmented by reference to topographic and substrate features, particularly where vegetation is not the dominant component of the habitat.

Notification of Landowners, Managers and Occupiers

3.10 Prior to surveys of Local Biodiversity Sites and potential Local Biodiversity Sites, efforts will be made to inform landowners, managers and occupiers of the purpose of the survey. There will be opportunities to comment or ask questions at this point in the process. Collected data will be made available and landowners, managers and occupiers will be notified of the outcomes of the subsequent assessment. Details of protected species will not be published.

Site Selection Criteria

3.11 The site selection criteria for determining if sites should become a Local Biodiversity Site are:

- Species status – this is an assessment of the combination of the rarity of the species and its association with the site. Species with local/national status, species with statutory protection and species included in Biodiversity Plans (Scottish Biodiversity List, UKBAP or LBAP) are considered alongside their status on the site (e.g. are they resident, are there significant populations etc.);
- Species diversity – this refers to the number of different species found on a site. In most instances this will be based on the vascular plant list for the site and compared against an expected value for each broad habitat type;
- Habitat importance – this considers habitat rarity, naturalness and extent as a single criterion;
- Connectivity to habitat network or corridor – this takes into account the wider landscape context of the site, in the context of relevant habitats;
- Biodiversity feature – this allows for extra weighting to be given to sites that have species biodiversity features not fully taken into account in other criterion such as the presence of great crested newt populations, bat roosts etc.; and
- Social factors - an assessment is made of the site's value for enjoyment, value for education and community involvement and its contribution to landscape quality. The score allocated for the social factors is only taken into consideration for designating a site as a LBS if a site's biodiversity value/score is considered to be borderline for it qualifying as a LBS. This means a site cannot be designated as a LBS on social criteria scores alone. The site requires to possess sufficient biodiversity merit to meet at least the borderline score level for becoming an LBS. This is in line with national guidance on local nature conservation sites (see paragraph 3.1).

Site Assessment and Designation

3.12 Site assessment reports are generated by TWIC for scrutiny by the Local Biodiversity Site Steering Group. The reports comprise:

- A detailed assessment of the site against the six site assessment criteria;
- Details of available data used;
- A proposed site boundary map;
- Phase 1 habitat maps of the site (including an area at least 50m outwith the proposed boundary);
- A habitat connectivity map; and
- Any other relevant supporting information.

3.13 From this information the LBS Steering Group will determine if:

- Adequate data is available for the assessment to be valid;
- The criteria have been applied consistently;
- There are any anomalies or outstanding matters; and
- The site boundaries include all areas of substantive biodiversity value.

3.14 Once the Steering Group is satisfied with the assessment, or has made any necessary adjustments, the site assessment will be approved or modified and the site's status recorded. Once the Steering Group has identified a site as a Local Biodiversity Site, the site is recognised as a designated LBS by Midlothian Council. TWIC will then:

- Where possible, notify landowners, managers and occupiers of the Steering Group's decision;
- Add the full details of the site to the LBS Register and digital layer of LBS boundaries;
- Provide a copy of the updated LBS Register and digital boundaries to Midlothian Council.

3.15 Where a site is proposed that has already been assessed (and failed) in the previous two years, the site will not be reviewed unless the LBS Steering Group considers that substantial new information is available.

Rolling Re-survey and Assessment

3.16 The target is for every Midlothian LBS to be re-assessed at least every 10 years, or as close to this target as resources allow. Where substantial change has occurred at a site then the reassessment may happen in a shorter timeframe.

3.17 Members of the Midlothian Local Biodiversity Site Steering Group are volunteers with relevant experience and knowledge. Requests to join the Steering Group should be made to Midlothian Council, and will be considered by the existing Steering Group members. New members will be expected to be qualified ecologists and/or botanists with significant relevant experience including wildlife recording.

4. Protected Species

4.1 Most bird species and a wide range of wild animals and plants have general protection from deliberate damage or harm under UK law. A number of species (referred to as UK Protected Species) have special protection under the [Wildlife and Countryside Act 1981](#) (species listed in Schedules 1, 5 and 8) and the [Badgers Act 1992](#) (as amended by the [Wildlife and Natural Environment \(Scotland\) Act 2011](#)).

4.2 In addition to this, some species such as otters and great crested newts have special protection from disturbance and harm under European legislation and the [Habitats Regulations 1994](#) (species listed in Schedules 2 and 4). These are known as European Protected Species (EPS).

4.3 More information about legislative protection of species is available from [NatureScot](#). Information about licensing of activities affecting protected species is provided in Section 6 of this planning guidance.

4.4 The presence of a protected species on or near a site is a critical consideration in the planning, design and implementation of development proposals, and in the development management and development planning processes. The presence of protected species rarely imposes an absolute block on development but mitigation measures will usually be necessary and this will affect the design, layout and timing of works. The list below identifies examples of development activities which are most likely to potentially affect European and UK protected species;

- Developments adjacent to or affecting ponds and other watercourses;
- Barn and rural building conversions (especially unoccupied stone built buildings);
- Alterations (or demolitions) to the roof spaces of buildings, in particular churches/chapels, institutional buildings, schools or development affecting caves, mines, tunnels, cellars and exposed rock faces, bridges, culverts, chimneys, kilns and ice houses, and/or any structures within 200m of water or woodland;
- Developments affecting woodland, hedgerows, lines of trees and scrub;
- Developments affecting old and veteran trees with a girth over 1.5m, or containing obvious holes including any felling or lopping;
- Developments affecting derelict land, brownfield sites, railways and land adjacent, grasslands and allotments;
- Developments affecting quarries, cliff faces and gravel pits; and
- Developments (such as wind farms) affecting open farmland, moorland and forestry sites in hilly, upland and exposed areas.

4.5 Developers must consider as early as possible whether protected species are, or may be, present on or near the site – ideally before the land is purchased and the planning application submitted. If the presence of a protected species is suspected,

the applicant must inform the Council's Planning Service when submitting a planning application (or as soon as it is suspected, if an application has already been submitted). The supporting evidence and survey work should be carried out by a suitably qualified and experienced ecologist.

5. Ecological Assessment and Mitigation

5.1 This section outlines Midlothian Council's expectations for the consideration of wildlife and habitats by applicants from initial site appraisal to post construction.

Development Site Survey and Assessment

5.2 The extent to which ecological assessment is required will depend on the scale, nature and location of a development proposal. Whatever development is proposed, applicants must ensure that they understand the development site's characteristics, including any possible wildlife and habitat significance. Site surveys and assessments should be undertaken by a suitably qualified and experienced ecologist. A list of qualified ecologists can be found in the Chartered Institute of Ecological and Environmental Management (CIEEM) Professional Directory at [CIEEM Members Directory](#).

5.3 In order for the potential impacts of a development to be understood it is necessary first to survey the proposed development site, undertaking an initial site survey. This survey should:

- Highlight any internationally, nationally or locally designated sites are in or near to the development site, or may be affected by the development;
- Identify potentially important habitats (mature trees, woodland, hedgerows, ponds or watercourses) in or near to the development site;
- Identify if protected species are likely to be in or near the development site;
- Evaluate the sensitivity, significance and value of the identified species and habitats; and
- Identify any further surveys which need to be undertaken.

A checklist of questions to consider and the next steps to take within an initial site survey is provided in Appendix 3. Helpful information including species records and habitats maps may be obtained from a number of sources including:

- [NatureScot Information Hub](#)
- [The Wildlife Information Centre](#) (TWIC)
- [National Biodiversity Network Atlas](#)

5.4 An ecological assessment is formed by the initial site survey and any additional detailed surveys required for the site. The ecological assessment should be carried out at the very beginning of the development process, prior to site design, so that presence of sensitive species and habitats can be taken into account during the design of the development, allowing avoidance measures or the need for mitigation to be carefully integrated into the design.

5.5 At the time of submitting a planning application, applicants should provide the following information:

- The initial site survey/ecological assessment (see 5.3 & 5.4 above);
- An assessment of any potential direct and indirect impacts of the development (during and post construction) on the features identified in the initial site survey/ecological assessment;
- Proposed enhancement, avoidance, mitigation or compensation measures, including method statements where appropriate; and
- Identify potential licensing requirements, and with reference to the relevant licence test, demonstrate that a future species licence is likely to be granted.

Survey Timing

5.6 The timing of ecological surveys is important to consider at an early stage as they often need to be conducted at certain times of year. A survey calendar indicating the most appropriate time of year for undertaking surveys for various species and habitats is provided in Table 1. Information about bird breeding dates in Scotland can be found [here](#). The timing of relevant ecological surveys should also be taken into account when submitting a planning application to avoid unnecessary delays because decisions on applications cannot be made until the necessary information is available.

5.7 Species surveys are weather dependant so it may be necessary to delay a survey or to conduct more than one survey if the weather is not suitable. All constraints must be clearly reflected in the survey.

5.8 In some circumstances surveys for certain species and habitats may be required over more than one season, and possibly covering periods measured in years, for example development potentially affecting European sites or bird flight patterns in relation to wind farm sites. Species surveys have a limited lifespan, therefore if a significant amount of time has passed since a survey was carried out then it may not remain valid. In such circumstances, the Council may require further surveys before the application can be determined or the development is started. For mobile species that have the ability to expand their range and whose distribution may change over time, pre-construction surveys may need to be done once consent is granted.

5.9 Further details about the timing of surveys can be found at [Nature.scot](#) and [CIEEM](#) (Guide to Ecological Surveys and their Purpose).

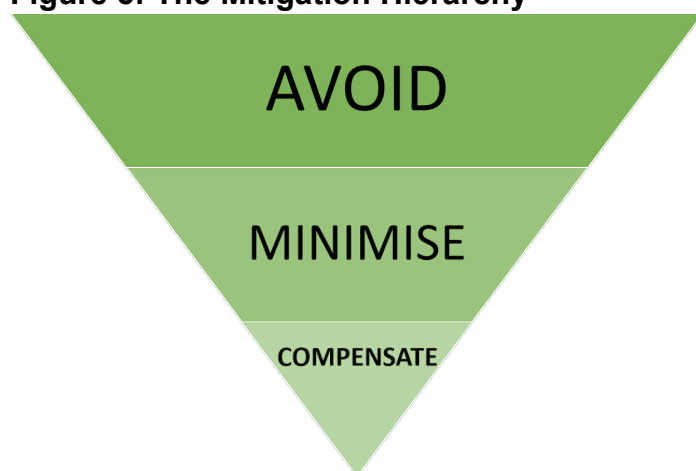
Ecological Mitigation

5.10 Ecological mitigation in its broadest sense includes avoidance, mitigation and compensation measures. Avoidance means measures taken to avoid adverse impacts completely, like adjusting the layout of a scheme so that areas of high nature conservation value are not destroyed, or altering the timing of works so that the site is left undisturbed during sensitive times such as the breeding season. Mitigation means measures taken to reduce adverse impacts, such as using

pollution interceptors to minimise pollution of watercourses, screens to reduce visual disturbance to birds or tunnels under roads to allow wildlife to pass from one side to the other. Compensation means measures taken to offset the damage caused by a development where avoidance and mitigation are not possible, for example by creating new habitat or enhancing existing habitat.

5.11 The mitigation hierarchy should apply when considering how to manage the risks of adverse impacts on wildlife and habitats (see Figure 5). Efforts should first be proposed to prevent or avoid impacts. If this is not possible, then measures should be made to minimise and reduce any unavoidable impacts. The last resort should be some form of compensation planting or habitat provision.

Figure 5: The Mitigation Hierarchy



5.12 Depending on what type of mitigation is proposed, it may be that there are certain times of the year when mitigation activities are inappropriate. An ecological mitigation calendar is provided in Table 2.

Management Plans

5.13 On sites where wildlife features are retained or new habitats and features are created, appropriate on-going management must be put in place to ensure long lasting benefits. This is likely to be part of the conditions placed on a planning consent and will be subject to enforcement if necessary. In these cases a management plan would be expected to be produced and submitted as part of the planning application. It should identify specific actions required for good management and include details of the phasing of the works.

Table 1: Ecological Survey Calendar

TARGET	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Habitat & Vegetation	Phase 1 only			Phase 1 and NVC Detailed habitat assessment surveys				Phase 1 only (least suitable time) No other detailed plant surveys				
	Mosses and lichens No other detailed plant surveys			Mosses and lichens		No surveys for mosses and lichens		Mosses and lichens				
Badgers	Limited sett/bait surveys	Bait marking and sett surveys			Limited bait marking and sett surveys			Sett surveys				Limited sett/bait surveys
Bats	Inspection of hibernation roosts (difficult)			Limited activity	Summer roost emergence surveys and activity surveys (internal inspection of roof spaces possible throughout April-October)				Limited activity		Inspections of hibernation roosts (difficult)	
Birds	Winter species		Breeding birds/ migrant species		Breeding birds	Low activity		Migrant species		Winter species		
Great Crested Newts	Newts hibernating		Pond surveys for adults/terrestrial survey Egg surveys April – mid June Larvae surveys from mid-May					Habitat survey		Newts hibernating		
Reptiles	Reptiles hibernating		Peak survey months are April and May			Reduced basking time lowers effectiveness of refugia surveys		Peak survey month	Limited activity	Reptiles hibernating		
Red Squirrel	Optimum time		Breeding Den Surveys			Optimum time		Surveys possible, weather permitting				
Otters	Limited by vegetation cover and weather conditions rather than seasons											
Water Voles	Low activity	Initial habitat survey	Habitat and field signs/activity surveys. May be limited by vegetation cover and weather							Initial habitat survey	Low activity	
Fish	For coastal, river and stream dwelling species, the timing of surveys will depend on the migration pattern of the species concerned. Where surveys require information on breeding, the survey timings will need to coincide with the breeding period which may be summer or winter months depending on the species											

KEY

	Recommended period for survey		Sub-optimal period for survey		Surveys not possible
--	-------------------------------	--	-------------------------------	--	----------------------

Table 2: Ecological Mitigation Calendar

TARGET	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Habitat & Vegetation	Planting and translocation		No mitigation for most species							Planting and translocation		
Badgers	Construction of artificial setts only (no disturbance of existing setts)							Exclusion from setts and destruction			Artificial sett construction only as per January	
Bats	Maternity roost works until mid-May				No maternity roost works				Maternity roost works from mid-September			
	Hibernation period			Hibernation roost works from mid-March							Hibernation period	
Birds	Clearance works		Nesting season (avoid ALL clearance works withough a breeding bird survey)					Clearance works				
Great Crested Newts	Pond management only		Both terrestrial and aquatic trapping possible				Terrestrial trapping only				Pond management only	
Reptiles	Scrub clearance		Capture and translocation programmes and scrub clearance				Weather dependant, but likely to be sub-optimal due to temperatures		Capture and trans-location	Scrub clearance		
Red Squirrel	Avoid all works in red squirrel habitat									Optimum time for works		Avoid all works in red squirrel habitat
Otters	No seasonal constraints, however restrictions are likely during breeding season											
Water Voles	Avoid works in habitats		Trapping and exclusion		Avoid works (breeding season)				Trapping and exclusion		Avoid works in habitats	
Fish	Mitigation for the protection of watercourses is required at all times of year											

NOTE: Mitigation for particular species will need to be timed so as to avoid their breeding season. This varies between species.

KEY

	Recommended period for mitigation		Sub-optimal period for mitigation		Mitigation not possible
--	-----------------------------------	--	-----------------------------------	--	-------------------------

6. Licensing Requirements

6.1 If development may have potential impacts on protected species that cannot be avoided through mitigation, then a licence from NatureScot may be required before work can proceed. This may apply even where planning permission is not required for the works, for example for internal works. Granting of planning permission does not affect or replace the need to obtain licences or permits required by other environmental protection legislation. To proceed with works without a licence may be an offence.

6.2 NatureScot is responsible for the administration of most protected species licensing in Scotland, with the exception of most marine species which are the responsibility of Marine Scotland. More information is provided at [Species Licensing](#).

6.3 For European Protected Species there are three strict legal tests which must all be passed before a licence can be granted. In summary they are:

1. There is a licensable purpose;
2. There is no satisfactory alternative; and
3. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

6.4 It is possible to license activities that could affect water voles and red squirrels for social, economic and environmental reasons. This could cover a range of activities including development. Licences may only be issued if:

- The authorised activity will contribute to significant social, economic or environmental benefit; and
- There is no other satisfactory solution.

6.5 If development works could result in disturbance to badgers in their setts, or damage or obstruction to setts, a licence will be required. Licences can only permit someone to “interfere with a badger sett”. It is not possible to license removal, translocation or killing of badgers for the purpose of development. NatureScot provides guidance at [NatureScot](#).

6.6 It is not possible to license actions that would otherwise be an offence in relation to wild birds for the purpose of development. Most developments are unlikely to result in the intentional or reckless killing of wild birds, but if they are carried out during the breeding season then there could be a risk of damage or destruction of nests or eggs, or disturbance to nesting birds. Because there is no development licensing powers for wild birds, this means that any development that could result in these actions should not proceed until the breeding season is over for these species. NatureScot provides more detailed guidance on birds and development at [NatureScot](#).

Invasive Non-Native Species

6.7 There are many species of non-native plants that have been introduced to Scotland over time which we enjoy in our gardens and countryside. However, a few are very invasive in the natural environment and cause serious problems. They out-compete our native plants for light, space and nutrients. The environmental damage caused by invasive non-native plants can be irreversible so it is important that they are controlled. The most common invasive species in Midlothian are:

- Japanese Knotweed (*Fallopia japonica*);
- Giant Hogweed (*Heracleum mantegazzanum*); and
- Himalayan Balsam (*Impatiens glandulifera*).

6.8 The [Wildlife and Natural Environment \(Scotland\) Act 2011](#) has introduced measures to deal with non-native species. If a survey shows these or other invasive non-native species are present on a site, the developer must remove them and ensure that they do not spread from the site. The most likely way in which invasive non-native species may be introduced to a development site is through soil contaminated with seed or root material.

6.9 If large volumes of soil are moved or introduced to a site, the planning authority will require a soil sustainability management plan. If a development is responsible for the introduction of invasive non-native species, either within or outwith the site, then the developer will have to remove the species and dispose of material appropriately.

6.10 Japanese Knotweed, Giant Knotweed and Himalayan Balsam are regarded as controlled waste. Developers should seek advice on the disposal of these plants by referring to the [SEPA website](#) and [Netregs - Environmental Guidance for Business](#).

6.11 The Scottish Government has produced a Non-native Species Code of Practice that will help those developing land that contains these plants to understand their legal responsibilities. For more information on this visit the [Scottish Government website](#).

7. Nature Friendly Development

7.1 Space for wildlife should be designed into new development. Nature friendly development means retaining and enhancing existing features such as ponds, wetlands, hedgerows, trees and woods, and connecting them with wildlife rich gardens, verges, amenity greenspace, cycle paths and footways. The result is a network of natural green and blue spaces and links in and through developments which are connected to the surrounding urban or rural landscape, contributing to wider ecological networks. The aim in Midlothian is for all aspects of the urban landscape to be designed to be nature friendly and to be an integral part of wider ecological networks.

7.2 The Midlothian Local Biodiversity Action Plan 2019-2024 identifies six priorities for action – pollinators; homes for wildlife; rivers, streams and ponds; invasive non-native species; people and nature; and protected sites and species. Many of the actions linked to these priorities can be delivered through development which is granted planning permission. The following actions will directly support the implementation of the Local Biodiversity Action Plan and should therefore be incorporated into development proposals:

- Include a wide variety of nectar rich planting in new developments and greenspaces and along active travel routes. All planting should be nectar rich, including shrubs. Native species are preferred in most circumstances. The aim is to provide a range of nectar sources year round, including night scented plants, to support a variety of pollinator species including butterflies, bumblebees and hoverflies;
- A variety of homes for wildlife including bird (e.g. swift) boxes, bat boxes, hedgehog hibernacula, amphibian hibernacula, bug hotels and brash piles should be provided as an integral part of landscaping scheme in locations suitable for the relevant species;
- Create and manage wildlife homes and routes as part of new developments, ensuring connections are made to neighbouring areas to provide opportunities for wildlife to move around;
- Boundary treatments should be permeable to small mammals. Hedges are the preferred option, but where fences or walls are required, mammal holes or tunnels should be provided to support the movement of wildlife;
- Maintain existing and create new ponds and wetlands, including SuDS ponds designed to enhance biodiversity and rain gardens, and wherever possible maximise the use of wet meadow grassland in drainage features;
- Increase the canopy cover in urban areas through appropriate tree planting;
- Protect and enhance existing hedgerows and create new native hedgerows within new developments;
- Integrate green walls, green roofs and green screens (for example ivy screens) into new development where possible; and
- Amenity grassland should incorporate species rich meadow grassland with a low impact mowing regime.

Appendix 1 – Key Legislation

There are European Directives, UK implementing Regulations and Acts of Parliament and Scottish Acts and Regulations that need to be considered in relation to the protection and enhancement of wildlife and habitats. These obligations have a significant influence on shaping policy. The following table contains a list of the most relevant pieces of legislation.

Legislation Name	Legislation Summary	Legislation web link
European and International		
Habitats Directive 92/43/EEC	Requires Special Areas of Conservation (SACs) to be designated for habitats and species listed on Annex I and II of the Directive and outlines the protection provisions, including those for species commonly known as European Protected Species. Transposed into law in Scotland by the Conservation (Natural Habitats etc.) Regulations 1994 as amended.	Habitats Directive
Birds Directive 2009/147/EC	Protects all wild birds, their nests, eggs and habitats within the European Community. It gives member states of the European Union the power and responsibility to classify Special Protection Areas (SPAs) to protect birds which are rare or vulnerable in Europe, as well as migratory birds which are regular visitors.	Birds Directive
Ramsar (Convention on Wetlands of International Importance)	Outlines protection of internationally important wetland sites protecting wildfowl habitat.	www.ramsar.org
UK		
Wildlife and Countryside Act 1981 (as amended)	Chief mechanism for providing legislative protection of wildlife in Great Britain. Transposes the Birds Directive and Bern Convention into national law.	www.legislation.gov.uk
Protection of Badgers Act 1992	Makes it a serious offence to injure or take a badger, or to damage or interfere with a sett unless a licence is obtained from a statutory authority (NatureScot).	www.legislation.gov.uk
Conservation (Natural Habitats etc.) Regulations 1994 as amended	Transposes the Habitats Directive into national law.	www.legislation.gov.uk
Conservation of Habitats and Species Regulations 2010	Transposes the Habitats Directive into law in England and Wales.	www.legislation.gov.uk
Scottish		
Environmental Impact Assessment Regulations (various)	Outlines the instances where and protocol for carrying out an EIA.	www.legislation.gov.uk
Nature Conservation (Scotland) Act 2004	Outlines measures designed to conserve biodiversity and protect and enhance the biological and geological natural heritage of Scotland	www.legislation.gov.uk

Legislation Name	Legislation Summary	Legislation web link
Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017	Outlines compulsory conditions for supporting a planning application with an EIA report. Updates previous regulations.	www.legislation.gov.uk
Wildlife and Natural Environment (Scotland) Act 2011	Creates a new regime for regulating invasive and non-native species.	www.legislation.gov.uk

Appendix 2 – List of Designated Sites

Statutory Designations

Location/Site	Grid Ref	Designation
Auchencorth Moss	NT 208552	SSSI
Bilston Burn	NT 270649 & NT 282648	SSSI
Black Burn	NT 235583	SSSI
Carlops Meltwater Channels	NT 174565	SSSI
Crichton Glen	NT 382606	SSSI
Dalkeith Oakwood	NT 337688	SSSI
Dundreich Plateau	NT 285489	SSSI
Fala Flow	NT 432586	SSSI/ SPA/Ramsar
Gladhouse Reservoir	NT 299535	SSSI/SPA/Ramsar
Habbies Howe – Logan Burn	NT 184618	SSSI
Hadfast Valley	NT 388688	SSSI
Hewan Bank	NT 285646	SSSI
Keith Water	NT 439620 & NT 438623	SSSI
North Esk Valley	NT 154582	SSSI
Peeswit Moss	NT 288550	SSSI/SAC
Roslin Glen	NT 280633	SSSI
Straiton Pond	NT 282667	LNR

SSSI – Site of Special Scientific Interest

SPA – Special Protection Area

SAC – Special Area of Conservation

LNR – Local Nature Reserve

Non-statutory Designations

Location/Site	Grid Ref	Designation
Aikendean Glen	NT 322622	LBS
Arniston Estate Woodlands & River South Esk	NT 327603	LBS
Auchendinny Ponds & Glencorse Burn Wood	NT 254617	LBS
Auchendinny Wood	NT 255613	LBS
Beeslack Wood & Haughhead	NT 245613	LBS
Bellyford Burn West	NT 376689	LBS
Black Burn North	NT 236589	LBS
Black Hill	NT 190630	LBS
Black Springs	NT 190664	LBS
Bonnyrigg to Rosewell Disused Railway	NT 299663	LBS
Borthwick Glen	NT 375595	LBS
Brothershiels Marsh	NT 430572	LBS
Bush Estate & Glencorse Burn	NT 247636	LBS
Camp Hill	NT 356637	LBS
Carrington Mill Wood	NT 310590	LBS
Cockmuir Marsh	NT 263552	LBS
Costerton & Fala Woods (West)	NT 438625	LBS
Dalhousie Burn	NT 317634	LBS
Dalhousie Castle Estate	NT 310590	LBS
Dalkeith Estate	NT 336685	LBS

Location/Site	Grid Ref	Designation
Edgelaw Reservoir	NT 300582	LBS
Erraid Wood	NT 247661	LBS
Ford Glen & Dewar Town Glen	NT 387643	LBS
Fullarton Water	NT 284572	LBS
Glencorse Reservoir & Glen	NT 222634	LBS
Gore Glen	NT 335616	LBS
Hare Moss & Auchencorth Moss	NT 212566	LBS
Hope Quarry	NT 404628	LBS
Kate's Cauldron	NT 464597	LBS
Linn Dean	NT 468591	LBS
Logan Burn	NT 174612	LBS
Loganlee Reservoir & Logan Burn	NT 196625	LBS
Mavisbank	NT 291653	LBS
Melville Estate & Melville Castle Estate	NT 312669	LBS
Middleton Lime Quarries (East)	NT 354574	LBS
Middleton Lime Quarries (West)	NT 342574	LBS
Milkhall Pond	NT 242573	LBS
Mount Lothian Quarry Ponds	NT 268561	LBS
Newbattle Woods	NT 334659	LBS
Penicuik House Estate	NT 219588	LBS
Penicuik Mill Lade & the River Esk to Esk Bridge	NT 242601	LBS
River North Esk: Drumbuie to Brunston Castle	NT 191575	LBS
River North Esk: Eskbank	NT 325673	LBS
River North Esk: Lasswade	NT 300658	LBS
River South Esk: Dalhousie Bridge to Lothian Bridge	NT 327641	LBS
River South Esk: Dundriech Plateau to Little Gladhouse	NT 296504	LBS
River South Esk: Little Gladhouse to Moorfoot	NT 298520	LBS
Rosebery Reservoir	NT 308557	LBS
Rosewell to Auchendinny Disused Railway	NT 271623	LBS
Roslin Glen Country Park	NT 266624	LBS
Roslin Moat & Curling Pond	NT 260634	LBS
Scroggy Brae	NT 165564	LBS
Shiel Burn Wood	NT 295622	LBS
Springfield Mill & The Maiden Castle	NT 287644	LBS
Straiton Pond	NT 282667	LBS
Stretchenden Wood	NT 377620	LBS
Temple Wood	NT 315579	LBS
Toxside Moss (North)	NT 276546	LBS
Toxside Moss (South)	NT 274534	LBS
Tyne Water & Preston Hall Estate Woodlands	NT 396661	LBS
Vogrie Country Park	NT 384633	LBS
Birky Side	NT 375602	pLBS
Middleton House Pond	NT 369582	pLBS
Tyne Water & Waverley Railway at Tynehead	NT 393590	pLBS
Waverley Railway – Gorebridge to Tynehead	NT 344613 – NT 390599	pLBS
Waverley Railway – Newbattle to Gorebridge	NT 328647 – NT 332621	pLBS

LBS – Local Biodiversity Site

pLBS – potential Local Biodiversity Site

Appendix 3 – Initial Site Survey Checklist

This checklist can help when undertaking an initial site survey. It gives an indication of the ecological data that will be required for a development site, as well as highlighting the important designations, habitats and species to be considered during the design and planning process. In some cases further survey requirements may be identified following consultations with Council staff and/or NatureScot.

CONSIDERATION	Y/N	IF YES THEN:
Does the site include all or part of a statutory designated site (e.g. SPA, SAC, Ramsar, SSSI, LNR)?		Consult NatureScot and Midlothian Council for more information
Is there a nearby statutory designated site (e.g. SPA, SAC, Ramsar, SSSI, LNR) that may be impacted by the development?		Consult NatureScot and Midlothian Council for more information
Does the site include all, part of, or impact on a nearby Local Biodiversity Site?		Consult Midlothian Council to determine under what circumstances, if any, development might be acceptable and the ecological data required
Does all or part of the site form a wildlife corridor or “stepping stone” linking two or more other areas of ecological value?		Assess ecological impact of development on the site and adjacent areas of habitat, and identify possible mitigation
		IF NO THEN:
Has a Phase 1 Habitat Survey been undertaken in order to help define the key habitats on site?		Consider undertaking a Phase 1 Habitat survey at the earliest opportunity
Does the site include any of the following habitats? (based on Phase 1 Habitat Survey)		
Mature trees (individual or small stands)		Survey for <ul style="list-style-type: none"> ▪ Bats ▪ Scottish Biodiversity List species
		Check for <ul style="list-style-type: none"> ▪ Tree Preservation Order ▪ Conservation Area designation
		Undertake <ul style="list-style-type: none"> ▪ Tree survey (species, locations, ground spread, age, height)
Woodland		Survey for <ul style="list-style-type: none"> ▪ Bats ▪ Breeding birds ▪ Red squirrels ▪ Badgers ▪ Scottish Biodiversity List species
		Undertake <ul style="list-style-type: none"> ▪ Phase II Habitat Survey
Hedges		Survey for <ul style="list-style-type: none"> ▪ Determine if the hedge is of particular ecological value i.e. species rich ▪ Breeding birds ▪ Scottish Biodiversity List species
Rivers, streams or wet ditches		Survey for <ul style="list-style-type: none"> ▪ Otters ▪ Water voles ▪ Salmon ▪ Scottish Biodiversity List species
		Undertake <ul style="list-style-type: none"> ▪ Ecological Impact Assessment

CONSIDERATION	Y/N	IF YES THEN:	
Ponds, pools or lochs		Survey for	<ul style="list-style-type: none"> ▪ Great Crested Newts ▪ Water Voles ▪ Scottish Biodiversity List species
		Undertake	<ul style="list-style-type: none"> ▪ Ecological Impact Assessment
Wetland or bog		Survey for	<ul style="list-style-type: none"> ▪ LBAP species
		Undertake	<ul style="list-style-type: none"> ▪ Phase II Habitat Survey on vegetated areas ▪ Ecological Impact Assessment
Long/rough grassland		Survey for	<ul style="list-style-type: none"> ▪ LBAP species
		Undertake	<ul style="list-style-type: none"> ▪ Phase II Habitat Survey on vegetated areas ▪ Ecological Impact Assessment
Bings/ Spoil tips/ rock faces		Survey for	<ul style="list-style-type: none"> ▪ Young's helleborine (on wooded bings) ▪ Scottish Biodiversity List species
		Undertake	<ul style="list-style-type: none"> ▪ Phase II Habitat Survey on vegetated areas ▪ Ecological Impact Assessment
Brownfield		Survey for	<ul style="list-style-type: none"> ▪ Invertebrates
Heath (heather)		Survey for	<ul style="list-style-type: none"> ▪ Scottish Biodiversity List species
		Undertake	<ul style="list-style-type: none"> ▪ Phase II Habitat Survey on vegetated areas ▪ Ecological Impact Assessment
Buildings/ barns		Survey for	<ul style="list-style-type: none"> ▪ Bats ▪ Barn Owls ▪ Nesting Birds ▪ Scottish Biodiversity List species
Scrub		Survey for	<ul style="list-style-type: none"> ▪ Scottish Biodiversity List species
		Undertake	<ul style="list-style-type: none"> ▪ Phase II Habitat Survey on vegetated areas ▪ Ecological Impact Assessment



PRE-APPLICATION REPORT REGARDING PRE-APPLICATION CONSULTATION FOR A MIXED-USE DEVELOPMENT INCLUDING: CLASS 2 (PROFESSIONAL AND OTHER SERVICES); CLASS 3 (FOOD AND DRINK), CLASS 4 (BUSINESS); CLASS 7 (HOTEL); CLASS 8 (RESIDENTIAL INSTITUTIONS); CLASS 9 (RESIDENTIAL); SUI GENERIS (FLATS); CLASS 10 (NON-RESIDENTIAL INSTITUTION) AND ASSOCIATED WORKS AT LAND AT THE JUNCTION OF THE A701 AND PENTLAND ROAD, NEW PENTLAND, LOANHEAD (21/00055/PAC).

Report by Chief Officer Place

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre application consultation submitted for a mixed-use development including: class 2 (professional and other services); class 3 (food and drink); class 4 (business); class 7 (hotel); class 8 (residential institutions); class 9 (residential); sui generis (flats); class 10 (non-residential institution) and associated works at land at the junction of the A701 and Pentland Road, New Pentland, Loanhead. The applicant has named the proposal 'New Pentland'.
- 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 The pre-application consultation for mixed-use development at land at the junction of the A701 and Pentland Road, New Pentland, Loanhead was submitted on 20 January 2021.
- 2.3 As part of the pre-application consultation process a public event would have been arranged in 'normal' times, however this is no longer

an option as a consequence of the ongoing Covid-19 public health emergency. Legislative requirements for pre-application consultations have been amended for a temporary period under the Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020. The changes remove the requirement for a public event, but as an alternative require prospective developers to advertise where relevant consultation material can be viewed online. The legislation does not prescribe the method of consultation but the guidance does set out the Scottish Government's expectations – which includes giving interested parties the opportunity to make comment. On the conclusion of the online event the applicant could submit a planning application for the proposal.

- 2.4 In terms of submission timescales, the applicant could submit a planning application for the proposal from 15 April 2021 if they have undertaken appropriate pre application consultation.
- 2.5 Copies of the pre application notice has been sent by the prospective applicant to the local elected members, Loanhead and District Community Council, Damhead and District Community Council, the local Member of Parliament (MP), the local Member of Scottish Parliament (MSP) and all Lothian Regional MSPs.
- 2.6 On the conclusion of the virtual public events (10 February 2021 and w/c 8th March 2021) the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a virtual 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.

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 comprises a 4.3 hectare parcel of land to the south-west of Straiton. It contains a series of existing uses including an amenity area associated with the existing Pentland Park residential caravan park, a landscaped area fronting the A701 and an agricultural field bounded by Pentland Park, Pentland Road and residential properties fronting the A701. It also includes the road carriageway and pedestrian footpath along part of Pentland Road and part of the road junction to Pentland Park Caravan Park.

- 3.4 The site is bounded by the A701 to the east with a vacant site forming part of the Straiton Retail Centre beyond. To the north of the site, beyond Pentland Road, and to the west of the site lies agricultural fields allocated for a Proposed Film/TV studio under Policy MX1 in the MLDP. Land to the west of the site is also allocated for Countryside and Prime Agricultural Land in the MLDP with Transport Infrastructure Safeguarding under Policy TRAN2 (Transport Network Interventions) beyond - which identified the potential alignment of the A701 Relief Road. The Pentland Park caravan park directly abuts the site's western and southern boundaries and contains a series of residential caravans occupied by permanent residents under the corresponding licence.
- 3.5 The site is subject to multiple allocations within the MLDP including the following designations:
- (1) Countryside (Policy RD1) - northern part of site;
 - (2) Prime agricultural land (Policy ENV 4) - north-western part of site;
 - (3) Residential Park Homes (Policy DEV 4) - southern part of site;
 - (4) Protecting Amenity within the Built up Area (Policy DEV 2) - southern part of site.

A development proposal involving mixed-use development on land within the northern part of the site (covered by the countryside and prime agricultural land policies) allocations would not accord with the corresponding MLDP policy objectives, particularly those found within Policy RD1. The proposed mixed-use development does not allow for the furtherance of an appropriate countryside/recreational uses (excluding the proposed open space area) and would be of a scale that is inappropriate and incompatible with the rural countryside character prescribed by this policy.

- 3.6 The southern part of the site is located within the 'Built up Area' where it is acknowledged that development is afforded in principle support subject to ensuring that there would be no material adverse impacts to the character or amenity of the existing area. Considering such impacts would be one of the key determining factors in assessing any future application covering this part of the site. Should these lead to a material detriment to the amenity or character of the area the development proposal would not accord with the above presumption in favour of support.
- 3.7 Irrespective of this allocation, the Residential Park Homes allocated under policy DEV 4 (and covering the same part of the site) includes far more restrictive policy requirements. Specifically, new development proposals are required to facilitate the sustained operation of the existing park home and that any development proposals that could impact its continuance, the long term management or enhancement of the site and effect the amenity of existing residents would not be permitted. The indicative pre-application sketches appear to show part of the park homes amenity area/open space being developed for alternate uses, which is considered to contravene the requirement within MLDP policy DEV 4. New areas of open space are proposed,

but this would likely address the consequential need for such provision associated with the proposed new uses rather than any relocation of the existing open space area associated with the residential park homes. This matter will require further investigation as part of any future planning application submission.

- 3.8 In addition to the above principle of development assessment, consideration will also have to be given to design matters. This includes layout, siting, design, appearance, materials, landscaping, open space, parking and (for residential uses) amenity requirements relating to building setbacks and garden sizes in order to accord with sustainable place-making policies in the MLDP (i.e. Policies DEV2, DEV3, DEV5, DEV6, DEV7 and DEV9).
- 3.9 Excluding any care home component, should any residential uses be included within the proposed mixed use development, consideration of the Council's Learning Estate Strategy will be required which sets out the Council's long term plans to accommodate the expected education needs. This has been informed by the location and level of development outlined in the MLDP and the Housing Land Audits. With respect to the site, a suitable education solution will be required to accommodate associated need from the proposed development. This will be delivered through developer contributions.

Conclusion

- 3.10 Overall, the proposed mixed-use development is contrary to the development plan. Specifically, the majority of the site is allocated as countryside within the MLDP and the southern part of the site is allocated for a residential park home where any development that would prejudice the continued use, siting and long-term management of the existing residential park home would not be supported. It is considered that the mixed-use development could compromise strategic objectives in the MLDP that require the openness and character of the countryside to be maintained and the amenity of existing park home residents to be protected.
- 3.11 Notwithstanding this, and prior to any potential support, developer contributions and conditions would be required to secure infrastructure improvements, including: road infrastructure improvements (i.e. the A701 Relief Road and the A702 Link Road), strategic cross-boundary transport infrastructure (under MLDP policy TRAN 2 and in line with Transport Scotland's requirements as trunk road operator), access and junction improvements (including footpaths and cycleways), education provision, landscaping, open space, green networks, water and drainage infrastructure, equipped children's play provision and adequate affordable housing provision (at least 25%).

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.

Peter Arnsdorf
Planning Manager

Date:	25 March 2021
Application No.	21/00055/PAC
Applicant:	Pentland Park Marine Ltd
Validation Date:	20 January 2021
Contact Person:	Steve Iannarelli
Email:	steve.iannarelli@midlothian.gov.uk



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

Proposal of application notice for mixed use development including Class 2 (professional and other services), Class 3 (food and drink), Class 4 (business), Class 7 (hotel), Class 8 (residential institutions) Class 9 (residential), Sui Generis (flats), Class 10 (non-residential institution) and associated works at land at the junction of the A701 and Pentland Road New Pentland, Loanhead.

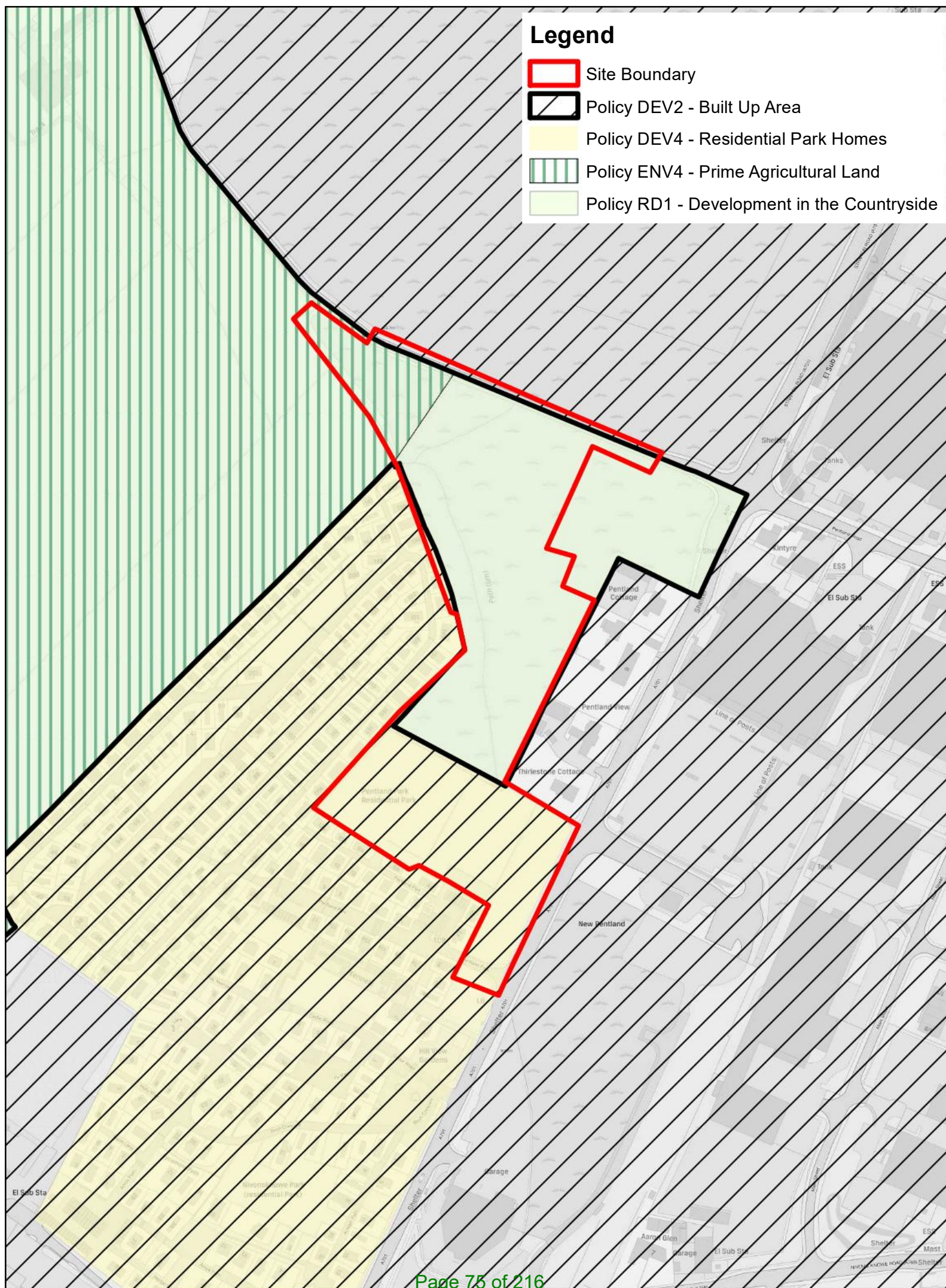
Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

Midlothian Council Licence No. 100023416 (2021)

File No: 21/00055/PAC

Scale: 1:3,000
Page 74 of 216







PRE - APPLICATION REPORT REGARDING THE ERECTION OF INTERMEDIATE CARE FACILITY, THE ERECTION OF AN EXTRA CARE FACILITY AND ALTERATIONS TO EXISTING ANNEXE BUILDING TO PROVIDE A DAY CARE FACILITY AT LAND AT THE FORMER ST MARY'S PRIMARY SCHOOL AND 62A POLTON STREET, BONNYRIGG (21/00088/PAC)

Report by Chief Officer Place

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 an intermediate care facility, the erection of an extra care facility and alterations to the existing Annexe building to provide a day care facility at land at the former St Mary's Primary School and 62A Polton Street, Bonnyrigg. The site comprises the Council's former offices at Dundas Buildings, the Annexe associated with Dundas Buildings and the former St Mary's RC primary school. The site is within the built-up area of Bonnyrigg.
- 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 an intermediate care facility, the erection of an extra care facility and alterations to the existing Annexe building to provide a day care facility at land at the Former St Mary's Primary School and 62A Polton Street, Bonnyrigg was submitted on 8 February 2021.
- 2.3 As part of the pre-application consultation process a public event would have been arranged in 'normal' times, however this no longer an option

as a consequence of the ongoing Covid-19 public health emergency. Legislative requirements for pre-application consultations have been amended for a temporary period under the Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020. The changes remove the requirement for a public event, but as an alternative require prospective developers to advertise where relevant consultation material can be viewed online. The legislation does not prescribe the method of consultation but the guidance does set out the Scottish Government's expectations – which includes giving interested parties the opportunity to make comment. On the conclusion of the online event, the applicant could submit a planning application for the proposal.

- 2.4 The applicant has utilised a bespoke online portal/website to host a 4 week consultation process. The proposals will be displayed in a simple page by page format and will also be available as a downloadable PDF format. There will be two types of engagement, one-way engagement and two-way engagement. The one-way engagement will allow comments on the proposal to be submitted via an online form; this type of engagement is analogous to leaving a comment slip having viewed display boards at a public event. The two-way engagement will be via two separate webinars, which will allow members of the public to question members of the design team; this type of engagement is analogous to a discussion with a representative of the applicant at a public event.
- 2.5 Copies of the pre application notice have been sent by the prospective applicant to the local elected members and Bonnyrigg & Lasswade, Poltonhall & Hopefield, Eskbank & Newbattle and Loanhead and District Community Councils.
- 2.6 It is reasonable for an Elected Member to attend one of the webinars 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.

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 situated to the south west of Bonnyrigg town centre on the main approach into the town from Rosewell. The site is level and measures 0.92 hectares in area. There are currently three buildings on the site: the two storey Dundas Buildings, a stone and render building

dating from the late 19th century; the category C listed single storey annexe building; and the two storey early to mid 20th century former primary school.

- 3.4 The adopted development plan for the area is the Midlothian Local Development Plan 2017 (MLDP) which identifies the site as a windfall site within the built-up area of Bonnyrigg where there is a presumption in favour of appropriate redevelopment. An application for the proposed development will be assessed against the following policies in the MLDP:
- STRAT2 – Windfall Housing Sites;
 - DEV2 – Protecting Amenity within the Built-Up Area;
 - DEV3 – Affordable and Specialist Housing;
 - DEV5 – Sustainability in New Development;
 - DEV6 – Layout and Design of New Development;
 - DEV7 – Landscaping in New Development;
 - TRAN5 – Electric Vehicle Charging;
 - IT1 – Digital Infrastructure;
 - ENV9 – Flooding;
 - ENV10 – Water Environment;
 - ENV11 – Woodland, Trees and Hedges;
 - ENV15 – Species and Habitat Protection and Enhancement;
 - ENV16 – Vacant, Derelict and Contaminated Land;
 - ENV18 – Noise;
 - ENV22 – Listed Buildings; and
 - ENV25 – Site Assessment, Evaluation and Recording.
- 3.5 The views of consultees and representors will be material considerations in the assessment of an application for the proposed development. The Council's Local Housing Strategy will also be a material consideration in the assessment of an application for the proposed development.
- 3.6 If an application is submitted there will be a presumption in favour of the proposed uses subject to the details of the proposal being acceptable and subject to the responses from consultees.

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 be expected to approach their decision-making with an open mind in that they must have regard to

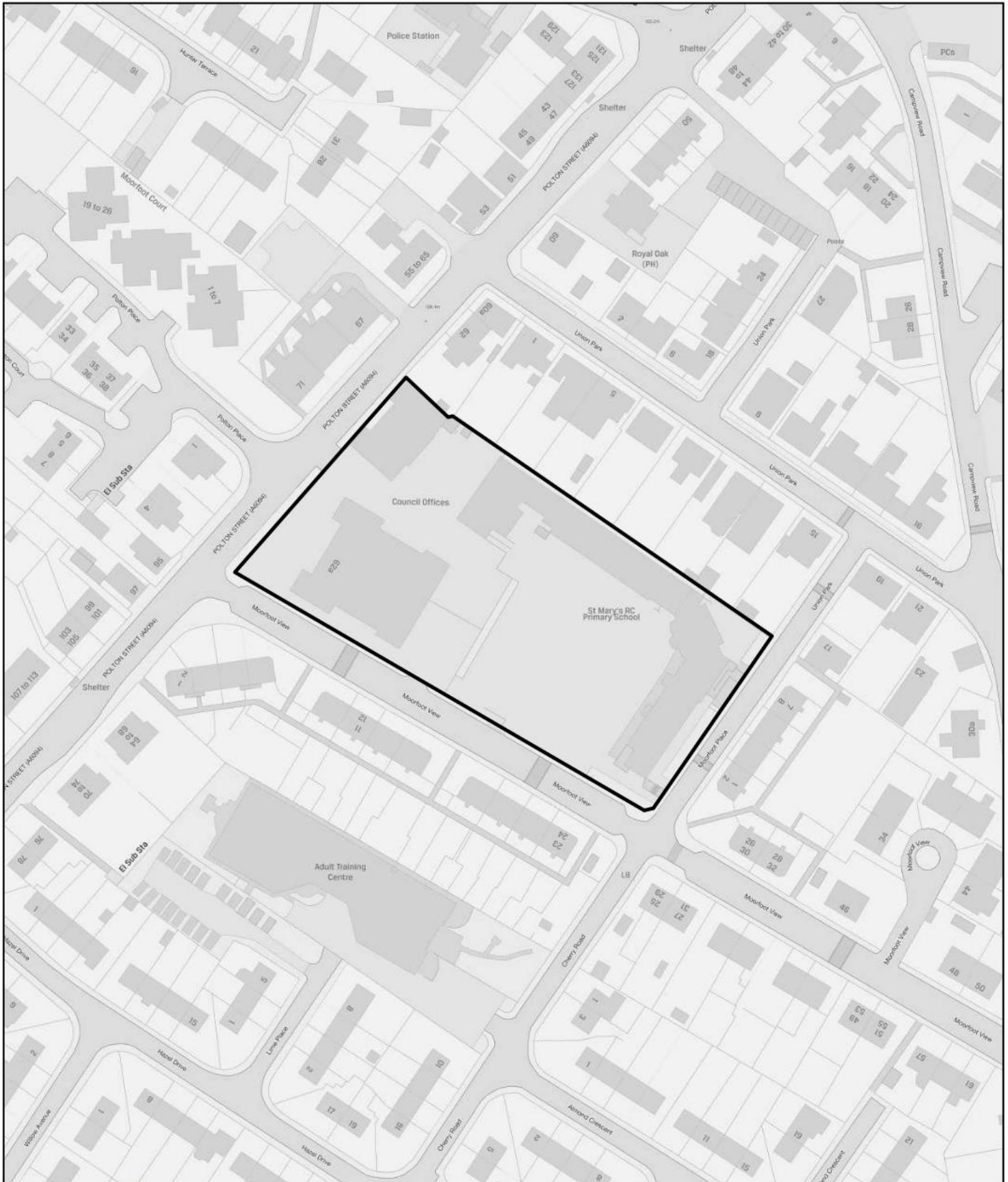
all material considerations and be prepared to change their views that they are minded towards if persuaded that they should.

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.

Peter Arnsdorf
Planning Manager

Date:	25 March 2021
Application No:	21/00088/PAC
Applicant:	Collective Architecture
Validation Date:	8 February 2021
Contact Person:	Graeme King
Email:	graeme.king@midlothian.gov.uk



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

**Erection of Intermediate Care Facility and Extra Care Facility.
Alterations to existing Annexe to provide Day Care Facility at
Land At Former St Mary's Primary School and 62A Polton
Street, Bonnyrigg,**

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

Midlothian Council Licence No. 100023416 (2021)

File No: 21/00088/PAC

Scale: 1:1,500
Page 81 of 216





**APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE
20/00906/PPP, FOR THE ERECTION OF HEALTH AND RACQUETS CLUB
WITH ASSOCIATED CAR PARKING, ACCESS, LANDSCAPING AND
ANCILLARY FACILITIES AT LAND AT SHAWFAIR PARK, OLD DALKEITH
ROAD, DANDERHALL, DALKEITH**

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for planning permission in principle for the erection a health and racquets club and associated works within Shawfair Park, Danderhall, Dalkeith. There have been no representations and consultation responses from The Coal Authority, Scottish Water, The Council's Archaeological Advisor, The Council's Policy and Road Safety Manager, The Council's Land Resources Manager and Danderhall and District Community Council.**
- 1.2 The relevant development plan policies are STRAT1, DEV2, DEV5, DEV6, DEV7, ECON1, ECON3, TRAN1, TRAN2, TRAN5, IT1, ENV7, ENV9, ENV10, ENV11, ENV15, ENV17, ENV18, ENV25, NRG5, 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 and the applicant entering into a Planning Obligation to secure contributions towards necessary transport infrastructure including the Borders Railway and Sheriffhall Roundabout.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is a 2.1ha plot of ground within an existing business park, currently vacant with a thin ground cover of scrub vegetation. Access to the site is from the north boundary via a four-arm roundabout, which connects to the internal spine road of the business park. From there, vehicles can then access the A7 to the southwest and the planned new settlement of Shawfair to the north. The A7 road to the southwest provides access to the trunk road network to the south and Edinburgh City Centre to the north. The site is bound on the south by a park and ride facility. Overhead power lines run east to west just beyond the**

site's southern boundary. To the east, the boundary is undefined with further scrubland beyond. The land slopes up towards a core path that connects the A7 with Millerhill Road to the north. The north boundary is also undefined and marked by more vacant land and the aforementioned roundabout and internal access road. To the west, the site abuts the internal spine road with vacant development land on the other side. To the southwest is a pub/ restaurant and a four-storey office building further beyond. The spine road is also part of the Midlothian Core Path Network. The site is generally flat and sits at a slightly lower grade (c.63m AOD) than the spine road to the west (c.64.5m AOD). Thick vegetation marks the south boundary with formal hedge and avenue tree planting characterising the west boundary.

- 2.2 The site is located in an established and developing business park, known as Shawfair Park. The area is characterised by newly formed access roads, landscaping and plots of vacant land awaiting development. The nearest residential area is Danderhall, around 1km to the north. There is a small group of residential buildings on Old Dalkeith Road (A7) located around 500m to the southeast, on the other side of the park and ride. In addition to the aforementioned pub/ restaurant and office building to the west, Shawfair Park also accommodates a group of three small office pavilions and a large private hospital located north of the site. Further consents have been granted within Shawfair Park for a dental and woman's health care facility to the north of the site, and an industrial building further to the west of the site beyond the pub/ restaurant.
- 2.3 The site is not subject of any designations for nature conservation or historic environment protection purposes. The site is not at risk of flooding according to the SEPA Flood Risk Map. The site is within a Coal Authority High Risk to Development Zone.
- 2.4 Shawfair Park is designated as economic development site e27 in the adopted Midlothian Local Development Plan 2017. This designation safeguards the site for employment generating land uses and protects against its loss to alternative uses.

3 PROPOSAL

- 3.1 The applicant proposes to erect a sports centre, with external pool and spa facilities and two sets of tennis courts housed under inflatable domes. The main building would accommodate the majority of facilities within a two storey building around 8 metres tall. The building would be of modern construction, steel-frame and exterior cladding, and include spaces for gym, fitness studios, an indoor pool and a general purpose sports hall. The total indoor floor space would be approximately 2,500 sqm.

- 3.2 The two tennis domes would be located within the site and detached from the main building. These are unique designs which allow for outdoor tennis utilising natural light, but within an enclosed environment sheltered from rain and wind. The applicant proposes one dome to be permanent and the other seasonal. The domes are constructed of polyester/ PVC panels on a metal frame and have a light/ white appearance. The domes would be lit internally with LED lighting.
- 3.3 The applicant has considered a number of factors in coming to a design solution for the site. These are set out in the applicant's Design and Access Statement (Hadfield Cawkwell Davidson, August 20). They include factors such as daylight/ sunlight for internal and external facilities. The applicant describes the specifics of their operation and how the environmental factors of a site can have a bearing on the internal arrangements. For example, the proposed spa garden and pool are located outside and need to avoid excessive shade from nearby buildings. The tennis court domes are also designed to accommodate Lawn Tennis Association requirements. These relate, in part, to climatic/ environmental conditions that affect the game.
- 3.4 The proposal includes 245 car parking spaces, of which 228 would be 2.4m x 4.8m bays, 12 would be accessibility spaces and five would be parent and child spaces. Eight spaces would be fitted with electric vehicle charging point kiosks. A footpath link would be formed from the west boundary and provides a direct off-road pedestrian link to the building entrance. Vehicular access would be taken from the existing roundabout spur with staff, visitors and deliveries utilising this connection. The applicant's Transport Assessment (Transport Planning Ltd, Oct 20) gives a description of the connections available to the site in the wider area. It also assesses the predicted vehicle movements to and from the site and the impact of these on the capacity of the road network.
- 3.5 The applicant has considered the flood risk implications of the development and devised a drainage strategy in response (Quattro Consult, Dec 20). The applicant proposes to connect foul and surface water drainage to existing connections constructed as part of the road infrastructure. The connection point for the site is beneath the roundabout spur to the north. Foul water will connect at this point too. Surface water is to be addressed in two tiers. The first comprises a combination of underground cellular storage, porous paving and filter trenches in the car park. Additional treatment would also be provided by hydrodynamic vortex separator accessed via manholes to filter out materials from surface water. The second level of treatment and attenuation is provided by the existing sustainable urban drainage system (SUDS) basin serving the whole of Shawfair Park.
- 3.6 The applicant has undertaken initial ground investigations of the site (Mason Evans Partners, July 2020). It found through intrusive

investigations no significant contamination source, with a low risk to persons and the environment. The risk from past mining activities is also considered and further work proposed to stabilise the ground conditions.

4 BACKGROUND

4.1 The following grants of planning permission are relevant to this application:

- 02/00660/OUT – Outline planning permission for residential, industrial and commercial floor space, community facilities (including new primary schools), associated landscaping with provision for sport and recreation and new transport facilities.
- 04/00405/OUT – Outline planning consent for Business Park with support facilities (including nursery, restaurant, conference and catering facilities) and hospital with associated landscaping, roads, car parking and accesses.
- 05/00863/FUL – Construction of spine road with associated landscaping, drainage and infrastructure
- 05/00337/FUL Construction of park and ride facility, including car parking, bus turning and waiting facilities, with SUDS drainage and landscaping
- 07/00119/FUL Extension to park and ride facility, SUDS drainage and associated landscaping
- 06/00539/FUL – Site levelling works
- 06/00720/FUL – Amendment of Conditions 2, 3, 4, 5, 6, 7, 8 and 9 of 05/00863/FUL to allow revised phasing of spine road
- 06/00721/FUL Removal of Conditions 2 (c) and 5 (a) of 04/00405/OUT to allow revised phasing of spine road
- 08/00497/FUL Proposal to carry out grouting works
- 08/00219/FUL Formation of new access road with associated drainage infrastructure and erection of sub station
- 08/00560/FUL Erection of an electricity sub-station
- 08/00435/FUL Variation of condition 1 of 04/00405/OUT to amend the developable area

- 08/00436/FUL Variation of 04/00405/OUT to allow deletion of condition 9
- 08/00299/FUL Erection of hospital with associated access, parking, landscaping, suds infrastructure and site levelling
- 08/00509/FUL Erection of hotel and associated access road, car parking and landscaping
- 08/00298/FUL Proposal to carry out grouting works
- 14/00358/SP Upgrading of overhead line
- 15/00089/MS Application for Matters Specific in relation to condition 1 (relating to former mineral workings, sustainable urban drainage strategy, landscaping to Cairnie Burn, programme for highway network improvements and travel plan details) of outline planning permission 02/00660/OUT for residential, industrial and commercial floor space , community facilities, associated landscaping with provision for sport and recreation and new transport facilities
- 17/00650/S42 Section 42 application to amend condition 4 of planning permission 02/00660/OUT. This application seeks to change to means by which the Master Plan and Design Guide (and related addenda) for Shawfair can be amended.
- 18/00946/LA Application to modify a planning obligation with a legal agreement (associated with 02/00660/OUT)
- 19/00023/PPP Planning permission in principle for erection of dental care facility and women's health centre.

4.2 The application site is larger than 2 hectares. Therefore, the application is a Major Development as defined by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. The applicant is required to undertake a 12 week period of consultation prior to the submission of an application for a Major Development, in accord with the Town and Country Planning (Development Management Procedures) (Scotland) Regulations 2013. The applicant submitted a Proposal of Application Notice (20/00607/PAC) which was reported to the Committee at its meeting of October 2020. The application is accompanied by a Pre Application Consultation (PAC) Report that details the extent to which the community were engaged with the proposals before the application was submitted. The application is therefore in accord with the statutory requirements of the 2013 Regulations.

4.3 The application was screened under the terms of The Town and Country Planning (Environmental Impact Assessment) (Scotland)

Regulations 2017. The consideration was whether or not the development is likely to result in any significant effects on the environment by virtue of factors such as its nature, size or location. The planning authority has considered the development, its location and the potential interaction between the two and found that significant effects on the environment are unlikely to emerge. The proposal's impacts on local sensitivities can be considered without the detailed study of an EIA Report. Therefore, the proposal is not EIA Development as defined by the said Regulations.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application, but recommends conditions securing remediation works to address potential mining stability risks.
- 5.2 **Scottish Water** does not object to the application, as there is sufficient capacity within their strategic networks to accommodate the development. The applicant is invited to engage in a pre development enquiry process at the appropriate stage. Existing Scottish Water assets are located on the site and will need to be assessed as part of the development process.
- 5.3 The Council's **Archaeological Advisor** does not object to the application. The site has been subject to an archaeological evaluation in 2006 and as a consequence no further work is required.
- 5.4 The Council's **Policy and Road Safety Manager** does not object to the application in principle. Some amendments to the plans are recommended, including: moving the electric vehicle charging points closer to the building entrance; and a new pedestrian/ cycling entrance to the site from the south to link to the park and ride. A green travel plan should also be submitted with detailed matters to demonstrate ways in which visitors to the site shall be encouraged to use sustainable modes of transport.
- 5.5 The Council's **Land Resources Manager** does not object to the application provided the development does not obstruct the nearby existing rights of way.
- 5.6 Danderhall and District Community Council (DDCC) does not object to the principle of development, but raise detailed matters, such as sustainability in construction, energy usage and car parking and also raise concerns over traffic implications on the local road network.

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 2017 (MLDP), adopted in November 2017. The following policies are relevant to the proposal:

Midlothian Local Development Plan 2017 (MLDP)

- 7.2 Policy **STRAT1: Committed Development** seeks the early implementation of all committed development sites and related infrastructure, including sites in the established economic land supply (Appendix 1B). Committed development includes those sites allocated in previous development plans which are continued in the MLDP, such as proposal e27, Shawfair Park.
- 7.3 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.
- 7.4 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.5 Policy **DEV6: Layout and Design of New Development** states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, and passive energy gain, positioning of buildings, open and private amenity space provision and parking.
- 7.6 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.
- 7.7 Policy **ECON1: Existing Employment Locations** seeks to safeguard those sites allocated for economic land uses against loss to non-business or industrial uses. Alternative uses for such sites will only be permitted if there is no net detriment to the overall supply of economic land.
- 7.8 Policy **ECON3: Ancillary Development on Business Parks** supports the principle of ancillary uses (such as child day care services, banking, convenience, healthcare services) at Shawfair Park and Salter's Park where these are of a scale suitable to service the existing and expanding workforce and business community at these locations.

The provision of and support for, ancillary development will be considered subject to:

- an assessment of the proposed uses and scale of provision not having an adverse impact on the prospects for Shawfair (proposed) and Dalkeith (existing) town centres; and
- the preparation of a masterplan indicating the scale, location and timing of provision.

Where substantive development is yet to commence, support for ancillary uses will only be considered if it is likely to act as an enabler to attract further investment to that business location. In each case, planning obligations will be used to regulate the scale, nature, extent and timing of such facilities, including any advanced provision.

- 7.9 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.10 Policy **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area.
- 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 **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.
- 7.14 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.
- 7.15 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environment.

- 7.16 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.
- 7.17 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.18 Policy **ENV17: Air Quality** states that the Council may require further assessments to identify air quality impacts where considered requisite. It will refuse planning permission, or seek effective mitigation, where development proposals cause unacceptable air quality or dust impacts.
- 7.19 Policy **ENV18: Noise** requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.
- 7.20 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.
- 7.21 Policy **NRG5: Heat Supply Sources and Development with High Heat Demand** encourages the co-location of developments with high heat demand next to sources of heat, in order to reduce the carbon footprint of building performance.
- 7.22 **NRG6: Community Heating** requires that, wherever reasonable, community heating should be supported in connection with buildings and operations requiring heat.
- 7.23 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.
- 7.24 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

National Policy

- 7.25 The **SPP (Scottish Planning Policy)** sets out Government guidance in relation to creating a successful sustainable place, supporting

economic growth, regeneration and the creating of well-designed places. SPP promotes town centres identifying the 'town centre first principle'. Development plans should adopt a sequential town centre first approach for uses such as retail with the order of preference being town centres, edge of town centres, other commercial centres identified in the development plan, and out of centre locations that are or can be made easily accessible by a choice of transport modes.

7.26 In relation to supporting business and employment the planning system should:

- promote business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environments as national assets;
- allocate sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities; and
- give due weight to net economic benefit of proposed development.

7.27 Plans should align with relevant local economic strategies to meet the needs and opportunities of indigenous firms and inward investors, recognising the potential of key sectors for Scotland with particular opportunities for growth, including:

- energy;
- life sciences, universities and the creative industries;
- tourism and the food and drink sector; and
- financial and business services.

7.28 SPP introduces a presumption in favour of development that contributes to sustainable development, but states:

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

7.29 SPP encourages a design-led approach in order to create high quality places. It states that a development should demonstrate six qualities to be considered high quality, as such a development should be; distinctive; safe and pleasant; welcoming; adaptable; resource efficient; and, easy to move around and beyond. The aims of the SPP are developed within the policies of MLDP.

7.30 SPP states that design is a material consideration in determining planning applications and that planning permission may be refused and the refusal defended at appeal or local review solely on design grounds.

- 7.31 SPP supports the Scottish Government's aspiration to create a low carbon economy by increasing the supply of energy and heat from renewable technologies and to reduce emissions and energy use. Part of this includes a requirement to guide development to appropriate locations.
- 7.32 SPP notes that "high quality electronic communications infrastructure is an essential component of economic growth across Scotland". It goes on to state that

"Planning Authorities should support the expansion of the electronic communications network, including telecommunications, broadband and digital infrastructure, through the development plan and development management decisions, taking into account the economic and social implications of not having full coverage or capacity in an area".

8 PLANNING ISSUES

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

Principle of Development

- 8.2 The site forms part of economic site e27 where there is a presumption in favour of appropriate development. The site is listed in Appendix 1B of the MLDP: Established Economic Land Supply as Shawfair Park where business and general industry (plus ancillary support activities) are promoted. Policy STRAT1 seeks the early implementation of committed development sites in Appendix 1B. Policy ECON1 safeguards existing business and industrial locations against loss. Acceptable uses within these areas would fall within Class 4 (Business) and 5 (General Industry) as defined by the Town and Country Planning (Use Classes) Scotland Order 1997, as amended. The reason to focus on these uses is that they tend to support a larger number of jobs than other non-residential uses, in the interest of supporting the local economy.
- 8.3 The applicant proposes a use that would fall within Class 11 (Assembly and Leisure). As this use is not directly supported within Shawfair Park, the proposal conflicts with Policy ECON1 and STRAT1.
- 8.4 Policy ECON3 recognises that ancillary uses at Shawfair Park should be allowed to serve the resident workforce and business community. The policy limits the scale of these types of uses so as to avoid impacts on nearby centres, such as Dalkeith and the proposed new town centre at Shawfair. The aim is to provide amenities for employees based at the park, rather than to change the character of the area to a retail-type destination. Policy ECON3 also seeks to restrict ancillary uses where

substantive development is yet to commence. Ancillary uses would be acceptable where they are likely to act as an enabler of further investment in that location.

- 8.5 Shawfair Park has been available as a business location for nearly 15 years. In that time, a number of uses have come forward. These include a mix of compliant uses – Office Pavilions (06/000215/FUL), SQA building (10/00098/DPP), Danfoss (20/00383/DPP) – and non-compliant uses – Spire Hospital (08/00299/FUL), Pub/ Restaurant (12/00142/DPP, and a Dental and Woman's Health Centre (19/00023/PPP). The adjacent Park and Ride facility has also taken up some allocated employment land.
- 8.6 So, whilst substantive development has commenced or been consented on Shawfair Park, it has comprised a mix of business/ industrial uses and alternative uses. Policy ECON3 could support alternative uses such as Class 11 where this would serve the immediate workforce and act as an enabler of further investment in employment generating uses. But, it is the scale of development proposed by the applicant which results in the conflict with Policy ECON3.
- 8.7 The scale and nature of the leisure use proposed in this application takes it beyond a use that serves the small number of employees that are based in this location. The applicant's Transport Statement (Transport Planning Ltd, October 2020) models the type of trips generated by the development. This clearly demonstrates that the use would serve a much wider catchment than merely the business park employees.
- 8.8 On the basis of the above, the proposal is not a use supported by the MLDP and is contrary to site allocation e27 and policies STRAT1 and ECON1. In addition, the scale of the proposed development is such that it falls beyond the scope of acceptable ancillary developments supported by policy ECON3. Supporting economic growth is a central concern of the MLDP which is aligned with other strategies of the Council. Safeguarding land for the needs of business is one of the most important tools available to Council to achieve these objectives. A broad reading of the development plan's aims, objectives and spatial strategy reveals the significance of the potential loss of employment land.

Material Considerations

- 8.9 In addition to an assessment against the relevant policies of the development plan, the decision maker must consider any material considerations for and against the proposal. Then, it is matter of judgement as to whether or not these considerations should be given sufficient weight to warrant a departure from the development plan or not. However, a departure from the policies relating to safeguarded

employment land must overcome a strong presumption against their loss.

- 8.10 The applicant has identified a number of considerations they identify as relevant and in favour of the development. These are set out in the Planning Statement (Lichfields, December 2020) submitted with the application. These can be summarised as:
- the development would support 75 full-time equivalent (FTE) jobs, mainly drawn from the local labour market;
 - the use would fit well with the park, avoid impacts on amenity and support further investment;
 - the site had previously been approved for a hotel (Class 7 and non-compliant use), so there is no net additional loss of employment land;
 - Midlothian is providing 243.62ha of employment land to meet a strategic need of only 129ha;
 - The proposal would avoid adverse impacts on nearby town centres;
 - The proposal is a unique offer providing world class tennis facilities to satisfy rising participation, particularly in young people and woman. The provision of all-weather surfaces supports the growth in tennis in particular, and healthy lifestyles more generally;
 - The proposal adopts high quality design, landscaping and sustainable construction materials.
- 8.11 In addition to these considerations, the applicant argues that the proposal is broadly compliant with the development plan. Along with other supporting technical documents, the proposal addresses the requirements of the impact policies of the plan leaving only the principle of land use as the conflicting provisions. Even here, the applicant considers the proposal would help to achieve the wider objectives of the MLDP in terms of investment in business, promotion of jobs and the facilitation of sustainable economic growth. Overall, the conflict with the development plan is acknowledged, but that there are sufficient considerations identified to overcome the presumption against.
- 8.12 In considering material considerations of any application, the most important statement of policy is Scottish Planning Policy (SPP). As a statement of the Scottish Government's priorities for economic growth and development, it carries significant weight. This significance is increased due to the age of SESplan and so the presumption in favour of sustainable development is elevated in material weight to "significant".

- 8.13 SPP puts the facilitation of sustainable economic growth at the heart of the planning system in Scotland. Supporting business and employment is a focus for SPP, encouraging planning to address the requirements of businesses and enable key opportunities for investment to be realised (para 92). Paragraph 101 requires local development plans to allocate a range of sites for business. The supply of land for business should be kept under review through business land audits.
- 8.14 SPP paragraph 28 provides a presumption in favour of sustainable development. In practice, this means that a development that is “sustainable” is acceptable in principle, and only where significant adverse impacts are identified should it be refused. Sustainable development is defined by 13 principles set out in paragraph 29. The first two principles include giving due weight to net economic benefit, and responding to economic issues, challenges and opportunities outlined in local economic strategies. The remaining principles relate to planning matters such as good design, natural and cultural heritage protection and the protection of amenity.
- 8.15 A full assessment of the proposal as sustainable development cannot be concluded until all relevant planning matters have been assessed. This will be rounded up at the end of this report. But in terms of the immediate issue of net economic benefit and the response to local economic issues, these matters address the principle of development. The applicant has provided information on the nature of the proposed operation and what the likely economic impact would be. The applicant highlights the number of jobs directly generated by the development, and suggests further positive impacts within the local supply chain.
- 8.16 In addition to the direct employment generated, the applicant has identified this part of Midlothian as a place under served by this type of leisure facility. Whilst this is difficult to corroborate, it does suggest that the investment would constitute net economic benefit, rather than displacing or replacing investment that could take place elsewhere.
- 8.17 Lastly, the applicant suggests that this type of investment would offer an attraction to other business uses to the Park which could act as a catalyst for further development. Again, these claims are difficult to verify, but can be accepted ex facie as a realistic outcome of the development. A business location with a nearby gym, pool and sports facilities would make a more attractive offer for businesses looking for new premises than a location without these types of facilities to hand. This fact, of course, must be balanced against the protection for employment land for the needs of businesses that MLDP policies safeguard.
- 8.18 Overall, it is accepted that the development would result in net economic benefit and the employment opportunities it generates is supported by the Council’s economic strategies. However, these are

general considerations and, on their own, not sufficient to overcome the presumption against this type of development in this location.

- 8.19 The Council has undertaken regular reviews of business land supply, in accordance with SPP. The latest Employment Land Audit (ELA20) identifies a supply of 243.62ha, of which 134ha is immediately available. Shawfair Park is included in the supply of immediately available land. The strategic needs of Midlothian as part of the Edinburgh City Region amount to 129ha, so it appears that there is enough land to meet needs if the 2ha of land in this application are lost to a Class 11 use. This consideration should be handled cautiously because SESplan is out of date so the 129ha of demand is a figure which is also aged. What's more, the protection of this land supply provided by planning policies accounts for why this land is available for businesses. It therefore cannot be used to justify the loss of part of the supply to alternative uses. Nevertheless, it is an important fact to note that there is a healthy supply of employment land in Midlothian and that the development of the site would not exacerbate an existing deficiency.
- 8.20 The applicant estimates the development would generate 75 FTE jobs. This is broken down in to 49 Full time and 25 part time David Lloyd Members of Staff, plus 4 part-time Tennis Professionals, 5 part time 'Blaze' instructors and around 12 exercise instructors. These latter groups would all be self-employed. The applicant expects to recruit these vacancies from within the local job market. It is also expected that the operation of the development would require support from a local supply chain to provide catering, cleaning and other services required to run a gym and spa. What the applicant does not highlight, but which must be considered, is the impacts of investment on the construction sector which would, naturally, be positive. The economic impacts are described by the applicant, but not demonstrated in any great detail. It should also be highlighted that the occupier of the development is a national chain with headquarters in Hertfordshire. Therefore, a large proportion of the expenditure generated by the development will likely leak out of Midlothian. So again, whilst the net economic benefit of the proposal is noted, it is not sufficiently compelling on its own to overcome the presumption against provided by the MLDP.
- 8.21 In relation to employment densities, advice has been provided by the Council's economic development team. It is an important element of this assessment to consider the number of jobs a particular development will provide and compare this to the numbers expected to be provided by a business use. Employment density information can be found by using the Homes and Communities Agency Employment Density Guide 2010, as adopted by the MLDP in Policy ECON 1. This data is over ten years old and may be out of date. It won't take account of recent advances in computerisation, homeworking or any post-Covid

trends in working patterns. Nevertheless, it serves as a good proxy for the purposes of understanding job creation of new development.

- 8.22 The proposal would provide around 4,107sqm of floorspace. This rises to 5,807sqm if the tennis courts are included. This analysis will present both figures as a high – low indicative figure rather than false specifics as the specialist nature of the use of this floorspace does not lend itself well this type of high level analysis. For other hypothetical uses, the higher figure is chosen because it is shown that the site can accommodate the scale of development, regardless of the use.

- 8.23 The table below summarises the comparison:

Land Use	Floor Space (sqm)	Sqm per workspace	Jobs Yield (FTE)
David Lloyd (min)	4,107	55	75
David Lloyd (max)	5,807	77	75
Office (Class 4)	5,807	10	580
Industrial (Class 5)	5,807	47	123
Leisure (Class 11)	5,807	65	89

- 8.24 On this analysis, the proposal falls well short of the densities expected by the 2010 Employment Density Guide. The degree of shortfall is stark, and so requires further investigation.
- 8.25 Therefore to corroborate this analysis, the number of employees at the recently submitted application by an engineering firm, 21/00135/DPP. The proposed 7,154sqm premises would operate under Class 4 and 5 use and is expected to accommodate between 120 and 170 FTE jobs. This would give an employee density of between 60 and 42 sqm per workspace, which is not significantly denser than David Lloyd Leisure would provide (55 to 77 sqm per workspace). Similarly, the development immediately to the north (19/00023/PPP) approved in principle a dental and woman's health care centre. This would provide 53 jobs within a building 7,852 sqm in size. This would provide an employment density of around 148sqm per workspace, which is significantly lower than the standard densities would expect. Within this context, the number of jobs provided by the proposed Class 11 use in this application compares reasonably well.
- 8.26 The applicant compares the proposal with the employment generated by the hotel consented in 2008. However, this permission lapsed without being implemented and so can be given no weight in the assessment of this latest application.
- 8.27 So, based on the above, an examination of employment densities draws mixed conclusions. If the nationally recognised, but dated, figures for expected job yields from different sizes and types of development is used, then the 75 FTE jobs generated by the proposal is much lower than what this matrix suggests could be generated by Class 4 and 5 uses. This would mean the economic impact of the

development would be limited and not sufficient to justify the loss of 2ha of employment land for such little employment gain. On the other hand, the employment densities guide is more than ten years old. More recent data is provided by two examples: a Class 4, 5 occupier; and, a Class 10 health care operator. Although a small sample size, it suggests that the expectations of job yields from the 2010 study need to be revised. The Class 11 use compares much more favourably to the proposed neighbouring Class 4/5 and Class 10 uses.

- 8.28 Overall, little weight can be applied to this assessment as it is difficult to accurately assess whether allowing the loss of employment land would unduly inhibit job creating uses. It may be more realistic to accept that the proposal would have a neutral overall impact in terms of job creation. The surrender of 2ha of employment land to this use would not mean that the Council is losing out on the potential creation of a significant number of jobs.
- 8.29 Another important consideration is the potential impact of the development on neighbouring centres. Policy ECON3 considers Shawfair town centre (proposed) and Dalkeith town centre (existing) to be sensitive to alternative uses that could be proposed for Shawfair Park and Salter's Park. The applicant has provided a sequential assessment of nearby centres and was unable to identify an available site for the development within a sequentially preferable location. Given the unique nature of the proposal, the applicant requires vacant land to accommodate a bespoke facility, rather than fit themselves within an existing building. This is based on a pre-determined template of onsite arrangements. The applicant highlights case law relating to sequential assessments which confirms it is for the applicant to find sites capable of accommodating their needs. Reasonable flexibility must be applied by both the developer and planning authority, but it is not reasonable for the planning authority to expect the developer to reduce their requirement to fit into a sequentially preferable location. On this basis, the applicant has demonstrated that there is no suitable site in existing centres that could accommodate the development.
- 8.30 The applicant's analysis is accepted and there are no sequentially preferable sites available in Midlothian that could accommodate the development. The applicant gives brief consideration to Shawfair town centre. As the town centre has yet to be developed, there are opportunities to provide a plot that would be of sufficient size to meet their requirements. However, the town centre of Shawfair is intended to be designed to meet the immediate needs of the new population, rather than draw people in from a wider area. The catchment area of the proposal is expected to be extensive and the members would likely travel from beyond the immediate vicinity. A use such as this would not be appropriate in the town centre due to the travel and car parking demands of occupants. In addition, there are also timing and phasing issues which it would be unreasonable of the planning authority to expect the applicant to fit their programme in with.

- 8.31 The leisure and gym occupier market in the UK is such that there are different operators that serve different sectors of the market, in the same way as hotels. These range in provision and budgets to suit different customer needs. Locating an upper range operator, such as David Lloyd Leisure, would not necessarily inhibit other operators who would serve a different market segment and would maybe be more suited to a town centre location. On this basis then, it is concluded that the proposal would avoid any significant impacts on nearby centres – Shawfair and Dalkeith.
- 8.32 The applicant offers a unique proposal which focusses on health, leisure and tennis facilities. The applicant highlights the population growth in Midlothian, which has given rise to the need for suitable sport and leisure facilities. The development would also meet the demand for all-weather tennis facilities to overcome the restrictions imposed by the Scottish weather. The rise in tennis participation has been strengthened by the success of Andy Murray and the UK Olympic team in recent years. This rising participation, together with a rising population, equates to a rise in demand for good quality facilities. Tennis is characterised by the applicant as an inclusive sport which can be enjoyed by a wide variety of people of all ages, abilities etc. Therefore, it offers an attractive proposition for people to engage in sporting activities.
- 8.33 What the applicant does not highlight, but is worth considering, is the importance of healthy lifestyles in response to the recent public health crisis. The location offers benefits in terms of co-location with the Spire Hospital, and the potential development of the adjacent Dental and Woman's Health Centre. Shawfair Park is also in close proximity to the Bioquarter which is around 3km to the north at Little France. Placed in this context, the location of a health centre fits well with the emerging cluster of health-focussed industries. The Council will also construct a secondary school within the town centre at Shawfair. Each new secondary school in Midlothian has a specialism, which provides focussed teaching for pupils who are interesting in a specific subject set, such as IT, sports science, STEM etc. The Shawfair School's specialism is yet to be decided, but early indications suggest it could be health and care. If it were, this would add to the emerging cluster in South East Edinburgh that is dedicated to this field.
- 8.34 The unique offer the development proposes could provide a valuable facility for the area, at the same time as complimenting the types of commercial and civic operations that have located (or are proposed) in the area. This context is focussed on health, for which there is a clear and obvious need. This factor provides support for the proposal and its weight is significant given the role the development could be expected to play in the recovery from the public health crisis. This role is twofold: economic recovery through the creation of jobs; and, the provision of sport and leisure facilities to promote healthy lifestyles. The

development could contribute to a strong clustering of like-minded industries and activities which gives the area a renewed purpose. This purposes - health and well-being - is a strong foundation to build on and would benefit the area significantly.

- 8.35 The area is subject to significant development as described in the Shawfair Masterplan (02/00660/OUT as amended). As well as the new secondary school, the development would provide around 4,000 new homes and other business, commercial and civic uses. This new community, in addition to the existing communities at Danderhall, Millerhill and Newton Village, would significantly benefit from a facility that caters for healthy lifestyles. The Masterplan focusses much of the new development on creating opportunities for active travel, outdoor recreation and healthy lifestyles. The landscaping around the new settlement will provide opportunities for walking and cycling. The area already benefits from active travel connections in the local area that provide long-range travel options to destinations around Edinburgh and the Lothians. The Masterplan also provides for sports pitches, open spaces and allotments, which all signify the health of the existing and future populations as a key placemaking principle. Again, this maybe further enhanced by the selected specialism of the secondary school. The development of a high calibre sports and leisure facility at Shawfair Park could make a strong contribution to this objective in an immediate and tangible way.
- 8.36 In terms of matters of principle, SPP highlights two core principles of the Scottish Planning System: sustainability and placemaking. Sustainability relates to a range of considerations, most of which are matters of detail. However, the applicant has provided some information on the operation of the building, which points to adherence to good practice on sustainable building performance, waste management and active travel options. The applicant has not considered a connection to a district heating network, which will serve the Shawfair new settlement. It is confirmed by officers involved in this project that connections to Shawfair Park would be possible if there were sufficient heat demand located there that could be fitted to utilise the heat. If a connection can be made, this would provide significant public benefit at a crucial time in the development of the district heating network. A connection would also align the project with climate change mitigation efforts in a compelling way. The Council's response to the climate change emergency requires the support of all stakeholders to realise. In this case, a connection to the district heating network to support the viability of the network to reach Shawfair Park would provide tangible public benefits in relation to climate change adaption. Therefore, a connection would support the principle of development with significant material weight. This connection could be secured by suspensive condition requiring the details of a connection, along with timing etc. to be provided as a matters specified in condition (MSC) application.

- 8.37 The other core principle of the Scottish Planning System is placemaking. This relates to design which is seen as a way to embed benefits and impact mitigation into proposals to ensure growth makes positive enhancements to places. The application is for the principle of development only. The applicant has provided a lot of detail in this case. However, this cannot be taken into account at this stage and would be the subject of further assessment through subsequent applications. But, the high-level principles of the site arrangement can be considered when assessing the proposal against design policies, such as MLDP Policy Dev 2: Protecting Amenity in the Built-Up Area, Dev 6: Layout and Design of New Development, Dev 7: Landscaping in New Development and ENV7: Landscape Character.
- 8.38 The site arrangements presented are shown as a standard format based on the applicant's operational needs as opposed to the particulars of the site. Whilst normally this approach is liable to conflict with the design policies of a development plan and SPP, in this case the site lends itself well to this type of development. On plan, the arrangement of the car parking to the front of the building would not be supported. The design ethos of Shawfair Park is to use buildings to create a place, to have active frontages that provide interest and activity at street level in accordance with established good urban design principles. The site orientation, which will not change when the details proposals are submitted, is based on a format which is more retail-like. It places the car park at the site frontage whilst the building is set back in a direct and intrinsic link with the car parking. This suggests a development that is car-focussed as well as providing a sub-standard urban design solution for Shawfair Park.
- 8.39 However, if it is agreed that the use is acceptable in this location, as a departure from the employment land safeguarding policies of the MLDP, then this type of site arrangement must also be accepted. This car park to building relationship requires a strong frontage to the car park to welcome visitors, whilst keeping the functional façade of the building hidden to the rear (east). The south elevation allows for the outdoor pool and spa facilities to capture the full extent of daylight/sunlight the site would receive. Such daylight/ sunlight exposure is also vital for the tennis domes, which rely on the natural light diffused within the dome's material to create the ideal conditions for the players. With these considerations in mind, the orientation of the site is given a strong justification as a departure from the design aspirations of Shawfair Park.
- 8.40 What is more compelling is the extent to which the site is screened from the main public routes through Shawfair Park. On the west boundary, the site is heavily landscaped to the extent that views into the site from street level are completely obscured by thick hedging. The difference in grade between the street level and western edge of the site also helps to minimise the impact. This means that the extensive areas of car parking, which would normally be resisted in exposed areas of the Park, cannot be viewed from key views in the

local vicinity. The applicant has committed to landscaping within the car parking area, which would further soften its visual impact from the north. Whilst the form of site arrangement would not normally be accepted, the site benefits from certain features which mitigate this impact and thus avoid any significant detrimental visual impacts which would harm the amenity of the area. Again, further detailing would be secured by condition. The applicant would be expected to include planting or other arrangements on the eastern boundary of the site to reduce the visual impact on views from the adjacent core path.

8.41 In general, the site is distant from nearby residential properties and other sensitive receptors. The development is acknowledged to fit well within a business park both in terms of the nature of its operation and its visual impact. The proposal would be in accordance with MLDP policies DEV2 and ENV7 in relation to amenity and landscape character. Notwithstanding the assessment of further details, the proposal can be considered acceptable in terms of the placemaking policies of the development plan and SPP.

8.42 Also of note as a material consideration is the representation submitted by the Danderhall & District Community Council. Their support for the principle, albeit with matters of details to remain under scrutiny, is noted. The proposal went through a pre-application consultation process and the application was advertised to the local community. No objections were received which can be taken as a factor in favour of the application.

Summary

8.43 In summary, the principle of development is not supported by the development plan. The proposal is for a Class 11 operator on land allocated and safeguarded for Class 4/5 use only. The protection of the established employment land supply provided by the MLDP is echoed in SESplan and SPP. There is a strong presumption against the loss of employment land in order to ensure that there is sufficient land available to accommodate the growth needs of the local economy.

8.44 The above assessment has identified material considerations, which should be taken into account. These should be balanced against the development plan to see if they are of sufficient weight to justify a departure in this instance. These material considerations are:

- Scottish Planning Policy – like the development plan, promotes sustainable economic development and makes provision for a wide range of planning topics. It has significant weighting but provides support for both approval and refusal;
- Employment Land Audit shows there is a surplus of employment land and the loss of this site would not exacerbate an existing issue. This supports approval, but has limited material weight.

- The number of jobs created is a strong consideration. But the analysis above provides an uncertain picture regarding this aspect of the proposal. Overall, there is limited support for approval provided by this consideration, although the significance of employment creation in new development is supported by SPP and the MLDP.
- The overall economic impact of the proposal is not clearly defined, although it is indicatively net positive. The proposal would avoid negative impacts on sequentially preferable locations, including Dalkeith (existing) and Shawfair (proposed) town centres. Again, the material weight of this consideration is significant, but this on its own is not sufficiently compelling to justify a departure from the development plan.
- The unique offer of the proposal is examined and set within the context of the site, of the Shawfair Masterplan and the wider South East Edinburgh. This context is also extended to include the current public health crisis and the future recovery effort that the wider community will need to tackle. It is accepted that the development could be a strong attractor of further investment in Shawfair Park. These considerations are not fully expressed in adopted planning policy, but they should be given significant material weight in support of a departure from the development plan in this instance.
- The proposal offers the opportunity to support the development of the district heating network towards Shawfair Park. As a response to climate change, this is given significant material weight and again justifies a departure from the employment land safeguarding policies.
- The proposal would avoid any significant negative impacts on the amenity or visual impact of the area. The detailed design of the proposal can be assessed in further matters specified in conditions. Design matters are given significant material weight by SPP and are reflected in the MLDP. The proposal avoids significant adverse visual impact, and the buildings would be considered to be well-designed. However, the layout of the site is similar in character to a retail format, which is contrary to the design principles of Shawfair Park.
- The proposal gained outline support from the Community Council and received no objections from local residents or the wider community. The views of the local community are given material weight in all planning applications, and the absence of a significant volume of objections can be counted in favour of the proposal. However, this alone would not be sufficient to justify a departure from the development plan.

- 8.45 On balance therefore, the loss of employment land in this location can be accepted in this case. This departure can be justified on the basis that the applicant offers a unique proposal which fits well with its context. This context relates to the amenity provided by the development, which could attract further investment. The context also relates to the current public health crisis and the recovery efforts the wider community across the UK will need to tackle.
- 8.46 The potential connection to the district heating network is also a matter of significance, which weighs in favour of the proposal. This can be secured by condition, which is appropriately worded to secure this connection. The economic benefits of the development are noted and considered, but these are insufficient on their own to justify this departure. However, they do contribute some weight and the employment opportunities and economic benefits of the investment in this location are welcomed.
- 8.47 The Council is very keen to maintain a supply of employment land to meet the needs of indigenous businesses and inward investors. This is key to facilitating the growth of the local economy for the benefit of the residents of Midlothian. The loss of employment land to non-compliant uses is not easily surrendered. However, the proposal in this application offers a unique proposition that has the potential to deliver real benefits in terms of health, well-being and climate change. These are matters of significant material weight and taken together are sufficient to overcome the employment land safeguarding policies of the development plan.

Transportation and Access

- 8.48 The applicant has demonstrated that the proposal would avoid any significant impacts on the local road network with all junctions in the area with demonstrable capacity to support the additional traffic flows generated by the development. The site is well located in relation to public transport infrastructure, such as the park and ride and nearby Shawfair train station. The site is connected by core paths, which connect the site to short and long range destinations. So whilst the majority of visitors to the site would likely travel by car, there is enough infrastructure in the local area to encourage a modal shift to more sustainable forms of transport. A travel plan for members of the club can be secured by condition. The suggested improvements made by the Council's Policy and Road Safety Manager can also be secured by conditions.
- 8.49 In accord with MLDP policy IMP1 the development will be required to make a proportionate financial contribution towards the Borders Rail and Sheriffhall Roundabout improvements. Subject to the signing of this agreement, the proposal would be in accordance with the development plan and other material considerations in relation to transportation and access.

- 8.50 Overall, the surrounding public transport infrastructure benefits the site in terms of its suitability to accommodate the development. The proposal would generate a significant number of trips and so it is in accordance with sound planning principles to locate this type of development in an area where alternative modes of transport are available. This fact is a significant material consideration and weighs strongly in the balance in favour of the principle of development in this location.

Ecology and Natural Heritage

- 8.51 The site is not designated for nature conservation purposes and the existing conditions on the site are not considered to be sensitive to redevelopment. A condition requiring an ecology report should be attached to any grant of planning permission. This should confirm the low ecological value of the site, offer protection measures for local wildlife and suggest enhancement opportunities to be included within the final designs of the development.

Cultural Heritage

- 8.52 The site is remote from listed buildings, conservation areas and gardens and designed landscapes (GDL). The nearest listed building is Category C listed Campend House, Boundary Walls, Gatepiers and Gates located 250m south of the site, on the other side of the Park and Ride. The site is also equidistant between the Drum GDL located to the west of Danderhall and around 1km from the site and Dalkeith Palace GDL and Conservation Area, around 1km to the east on the other side of the A720. The application has been reviewed by the Council's Archaeological Advisor and no objection is lodged. The site has previously been the subject of investigation and no further measures are required here. The site is part of land designated for development and so a degree of change in the built environment is acceptable in this location and as it relates to surrounding the historic built environment. Therefore, the site is expected to avoid any significant adverse impacts on the cultural heritage of the area.

Flooding and Drainage

- 8.53 The applicant has provided sufficient information to discount flood risk on the site. The layers of treatment and attenuation of surface water are appropriate and connection to the existing SUDS that serves Shawfair Park is an acceptable proposal. Therefore, the proposal considers its implications in terms of water quality and flood risk mitigation. The details of this drainage strategy should be secured by condition.

Ground Conditions and Stability

- 8.54 The applicant has provided a report into ground investigations, which note the low risk to human health from contaminants in the ground. The high risk to development from coal mining in the area has also been reviewed and further work recommended. This should be secured by condition.

Amenity

- 8.55 The location of the proposed development benefits from physical features that mitigate its impact on the surrounding area, in terms of amenity concerns. The visual impact has been considered above and the conclusions relevant here. The site is isolated and contained within itself and so any noise, odours or other statutory nuisances would be not affect sensitive receptors within the immediate area. A condition relating to noise generated by the development is considered appropriate as a safeguard of amenity concerns.
- 8.56 The development of the site would not inhibit the development of further areas of the Business Park to a significant degree. The proposal takes appropriate account of its implications in terms of water, air and soil quality. A condition which requires a Construction and Environment Management Plan can secure good site practices and the mitigation of negative impacts on the environment and local amenity.

9 RECOMMENDATION

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

The proposal, to erect a Class 11 gym, spa and sports centre, on land safeguarded for employment use is contrary to the land use policies of the development plan. However, there are compelling material considerations of sufficient weight to warrant a departure from these policies in this instance. These considerations include; the number of jobs created, the unique offer of the facilities proposed and their fit within the context provided by the site, the potential for connection to district heating network, the public transport connections available within the area and the presumption in favour of sustainable development provided by Scottish Planning Policy. It is hoped that the proposal would elevate the status of Shawfair Park as a location for business investment and act as a catalyst for new further development of business premises. The proposal would enhance the amenity of the Shawfair new settlement whilst avoiding negative impacts on the proposed town centre and that of Dalkeith. The proposal aligns with the Masterplan principles for Shawfair, to encourage sustainable, healthy lifestyles within a vibrant community.

Subject to:

- i) the prior signing of a legal agreement to secure developer contributions towards the Borders Rail Line and Sheriffhall Roundabout improvements. The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused.
- ii) the following conditions:
 - 1. Prior to the commencement of development, an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works shall be 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 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. The landscaping in site shall be completed prior to the building hereby approved becoming operational;
 - vii drainage details and sustainable urban drainage systems (SUDS) to manage water runoff. The SUDS shall be designed in compliance with the Flooding, Drainage and Surface Water Strategy (Quattro Consult, December 20) and the SUDS Manual (C753) and shall be constructed to be compliant with Scottish Waters requirements in relation to adoption (where appropriate);
 - viii. An Ecological Appraisal, including a Phase 1 Habitat Survey, includes measures outlining protection of flora and fauna during the construction phase, and the enhance of biodiversity during the occupation phase of development; and
 - ix details of a sustainability/biodiversity scheme for the site, including the provision of boxes for bats and swifts within or immediately adjacent to the site.

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

(1vi). 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 biodiversity enhancements and landscaping to reflect its setting in accordance with policies DEV2, DEV6 and DEV7 of the adopted Midlothian Local Development Plan 2017 and national planning guidance and advice.*

2. Prior to the commencement of development, 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 and cycle ways in relation to a fixed datum;
- ii proposed vehicular, cycle and pedestrian access;
- iii proposed roads (including turning facilities), footpaths and cycle ways, including a 3m wide pedestrian/ cycle connection from the south to provide a direct link with the adjacent park and ride facility;
- iv proposed visibility splays, lighting and signage;
- v a Green Travel Plan designed to minimise the use of private transport and to promote walking, cycling and the use of public transport; and
- vi proposed car parking arrangements and cycle parking arrangements for staff and visitors.

For the avoidance of doubt, the developer shall relocate the 8no electric vehicle charging points closer to the building entrance to encourage their use. 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. Prior to the commencement of development, 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. The development shall thereafter be carried out using the approved

materials or such alternatives as may be agreed in writing with the planning authority. For the avoidance of doubt, the detailed drawings provided in this application are not approved and will be subject of further assessment.

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.*

4. Prior to the commencement of development, an application for approval of matters specified in conditions for a scheme to deal with previous mineral workings has been submitted to and approved by the planning authority. The scheme shall adhere to the recommendations of the Mason Evans Partnership Site Investigation Report (Section 13.5.2). 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 the use proposed, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

5. On completion of the decontamination/ remediation works referred to in condition 4 above and prior to any building on the site being occupied, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. The said report shall be signed by a suitably competent person who can confirm the site has been made safe and stable for the development hereby approved in principle. No part of the development shall be occupied unless or until the planning authority have approved the required validation report in writing.

Reason for conditions 4 & 5: To ensure the site is made safe and stable for the approved development in accord with the relevant best practice procedures.

6. The design and installation of any plant or equipment shall be such that the combined noise levels does not cause a nuisance and complies with NR30 (daytime 07.00 - 23.00) or NR25 (if the noise is tonal) and NR25 (night time 23.00-07.00) or NR20 (if the noise is tonal) when measured (window open standard) within any adjacent living accommodation in any neighbouring noise sensitive premises.

Reason: To safeguard the amenity of nearby residential properties from potential noise nuisance, which can be designed out of the development.

7. Prior to the commencement of development, an application for approval of matters specified in conditions for a Construction and Environment Management Plan (CEMP) has been submitted to and approved by the planning authority. The approved CEMP shall include details of construction traffic routes, hours of construction activities, staff compound and parking, wheel cleaning facilities, construction SUDS, fencing and any and all other measures required to mitigate the amenity and environmental impact of the construction activities on site. Thereafter, the construction phase of development shall proceed in accord with the approved details, unless otherwise varied with the written agreement of the planning authority.

Reason: To safeguard the amenity of the area during construction phases of development.

8. Prior to the commencement of development, an application for approval of matters specified in conditions for an Energy Statement has been submitted to and approved by the planning authority. The approved Statement shall provide details of a connection to the district heating network provided by the Millerhill Waste and Recycling Plant, or any alternative low carbon heat source including all necessary connection details and supporting infrastructure. Thereafter, the development shall proceed in accord with the approved Energy Statement, unless otherwise varied in writing with the planning authority.

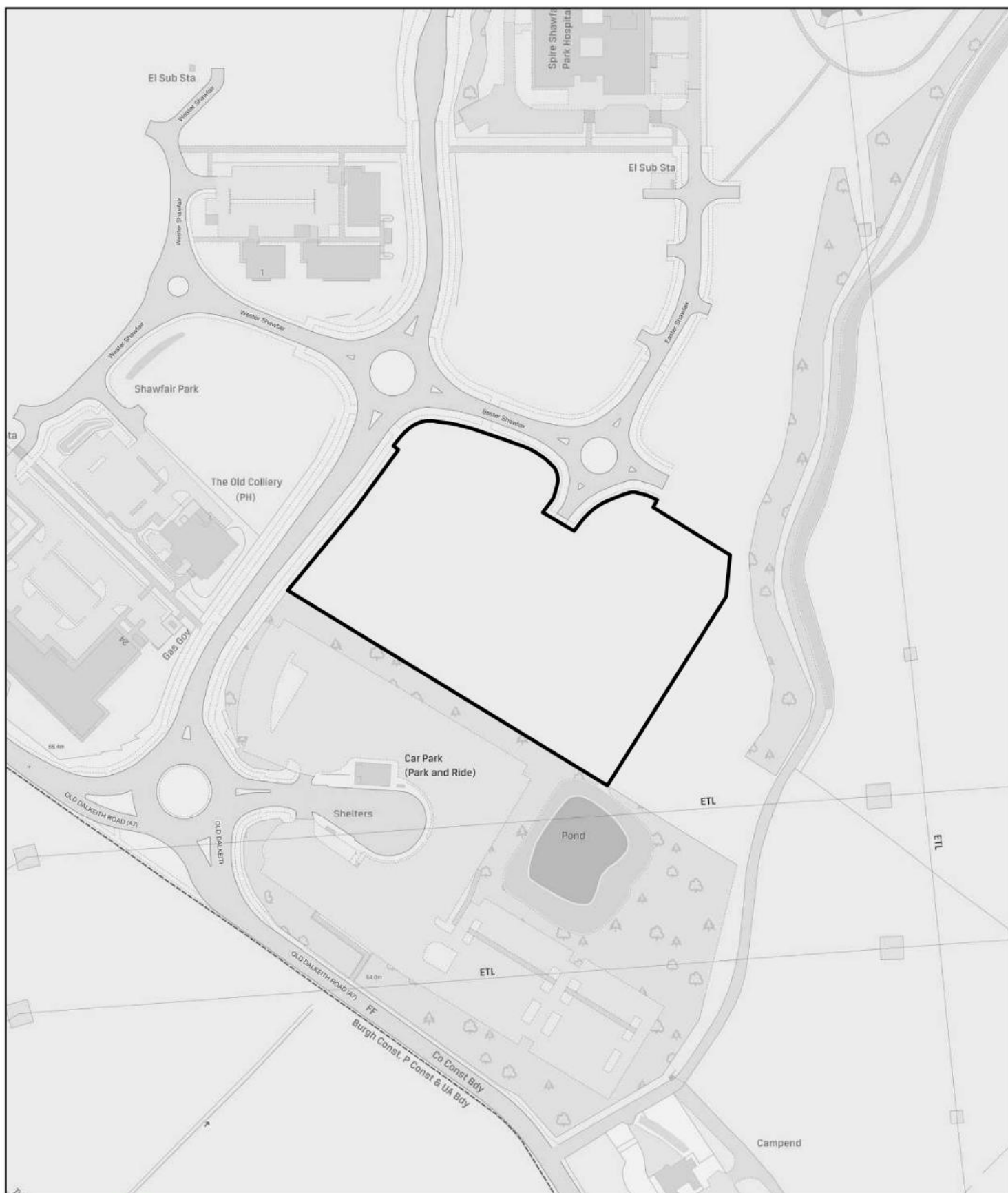
Reason: To secure compliance with NRG5: Heat Supply Sources and Development with High Heat Demand, to promote a decentralised heat supply and mitigate the effects of climate change by reducing Midlothian's territorial greenhouse emissions.

9. The development hereby approved shall be limited to 6,000sqm of gross internal floorspace, unless varied with the written approval of the planning authority.

Reason: *To define the planning permission hereby approved and limit the quantum of development to remain commensurate with the mitigation secured by legal agreement.*

Peter Arnsdorf
Planning Manager

Date:	25 March 2021
Application No:	20/00906/PPP
Applicant:	David Lloyd Clubs
Agent:	Lichfields
Validation Date:	8 January 2021
Contact Person:	Martin Patrick
Attached Plans:	Location, Site and Elevation Plans



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

Erection of sport and leisure club; formation of access roads, car parking and associated works at Land North East of Sheriffhall Park and Ride, Easter Shawfair, Danderhall,

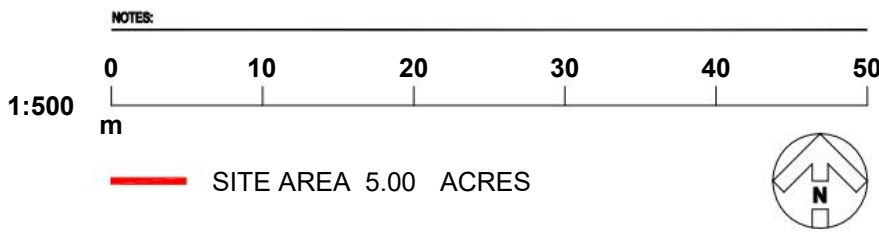
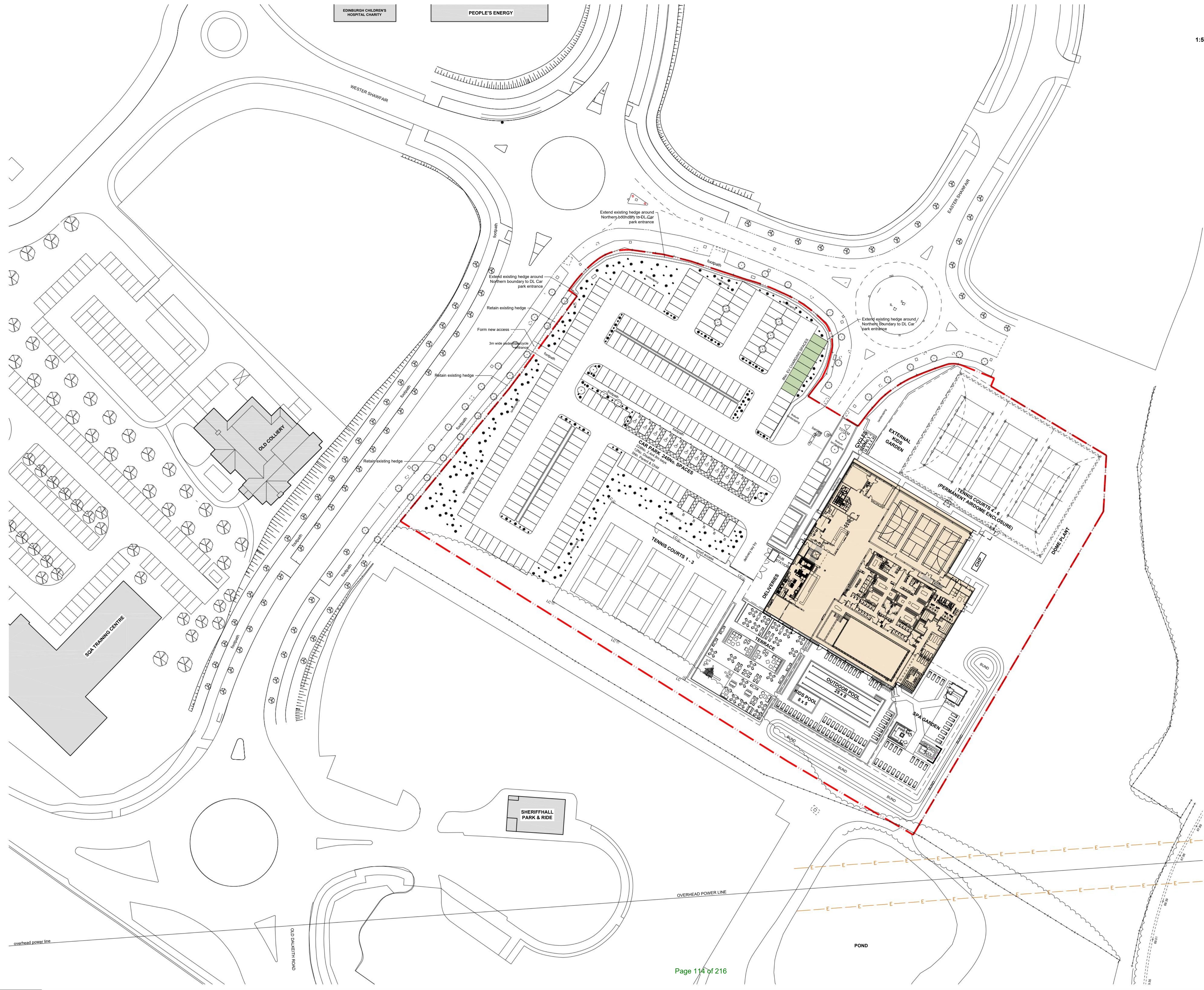
Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

Midlothian Council Licence No. 100023416 (2021)

File No: 20/00906/PPP

Scale: 1:2,500
Page 113 of 216





FOR ILLUSTRATIVE
PURPOSES ONLY

REVISION: P01 BY: JAH CHECKED: ARB DATE: 18/12/2020
Notes revised
REVISION: P02 BY: CM CHECKED: CM DATE: 19/08/2020
Initial issue

PLANNING

PLAT DATE:

David Lloyd
CLUBS

CLIENT:

SHAWFAIR PARK

PROJECT:

PROPOSED INDICATIVE
SITE PLAN

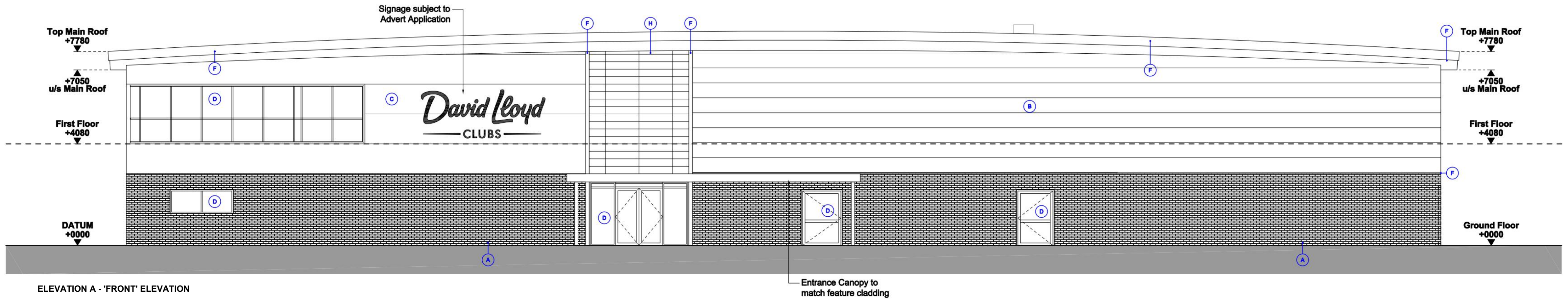
DRAWING:
DRAWN BY: CM SCALE: 1:500 @ A1 DATE: JULY 2020

Hadfield Cawkwell Davidson

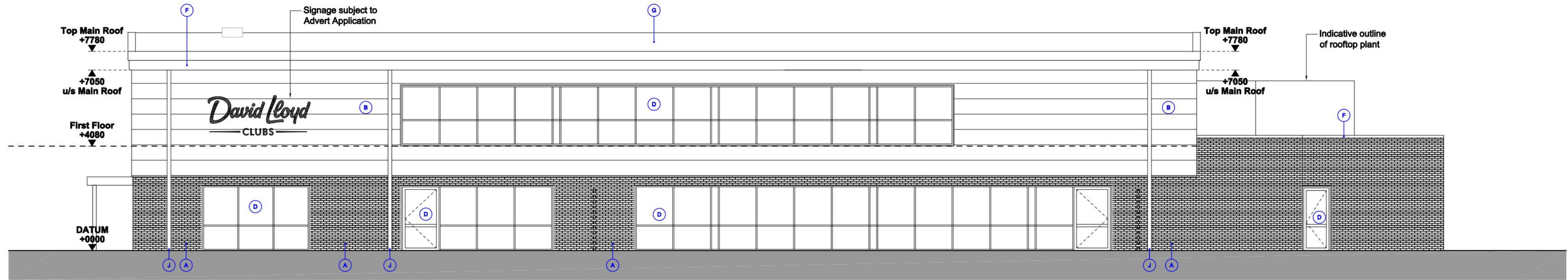
Broomgrove Lodge, 13 Broomgrove Rd, Sheffield, S10 2LZ T 0114 266 8181 www.hcd.co.uk

Architecture | Engineering | Interior Design | Masterplanning | Urban Design

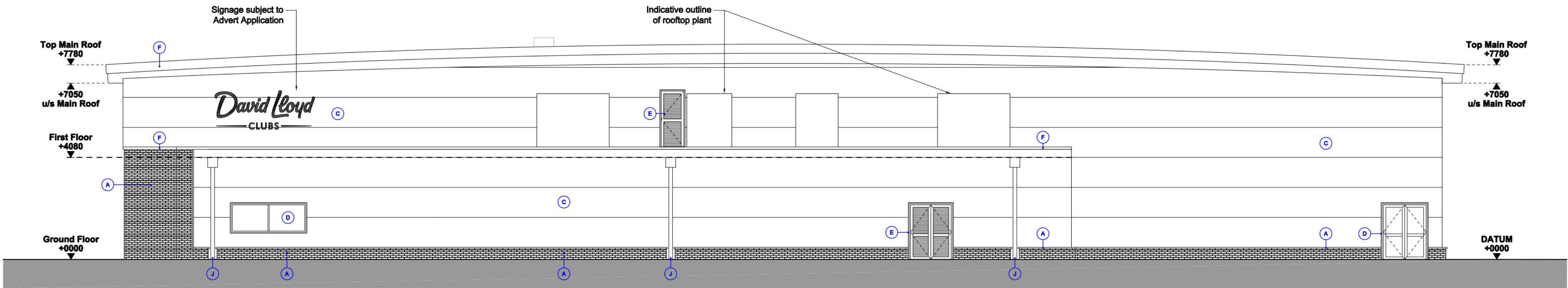
JOB NO: 2017-245 | DRAWING NO: A-09-001 | REV: P01
S:\Architecture\2017-245\Drawings\DR - Plotsheets\Planning\Shawfair_FL-09-001_Proposed Site Plan.dwg | 4/10/20



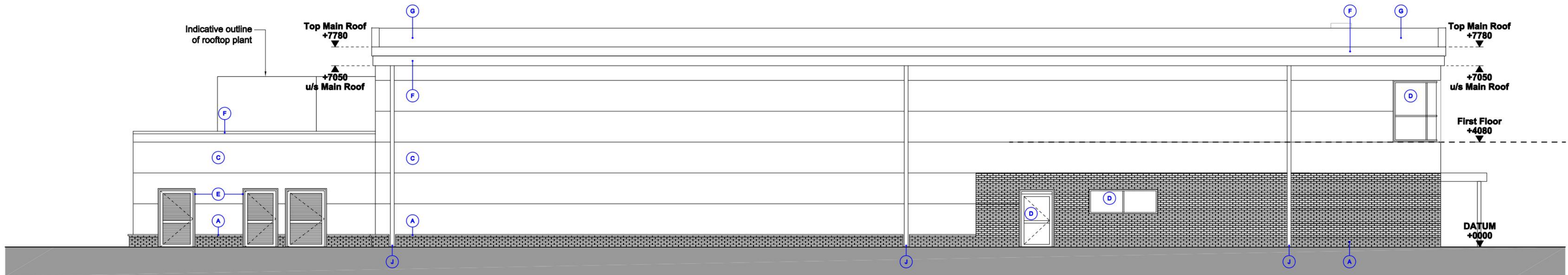
ELEVATION A - 'FRONT' ELEVATION



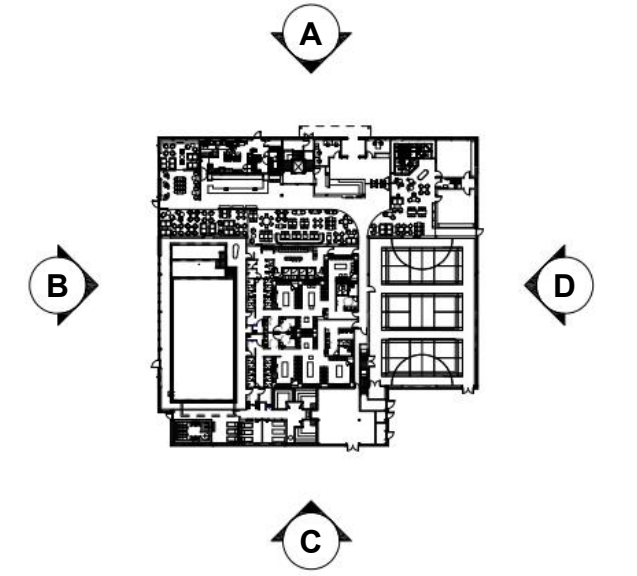
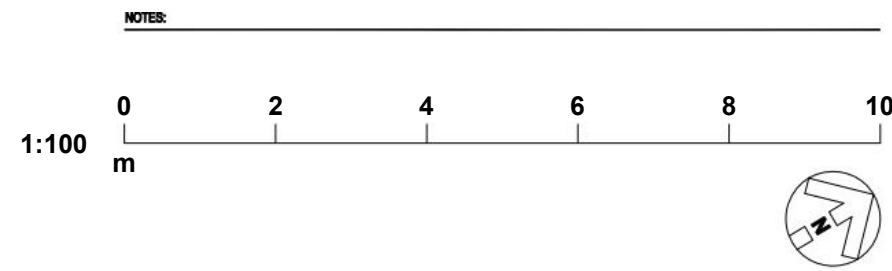
ELEVATION B - 'POOL SIDE' ELEVATION



ELEVATION C - 'REAR' ELEVATION



ELEVATION D - 'TENNIS DOME SIDE' ELEVATION



MATERIALS KEY

- (A) MASONRY PLINTH, SLATE BLUE SMOOTH BRICK
- (B) RAINSCREEN CLADDING
- (C) HORIZONTAL 'FLAT PANEL' COMPOSITE CLADDING
- (D) POLYESTER POWDER COATED ALUMINIUM CURTAIN WALLING / GLAZING
- (E) POLYESTER POWDER COATED ALUMINIUM METAL LOUVRE TO MATCH CLADDING
- (F) POLYESTER POWDER COATED ALUMINIUM PARAPET CAPPING / FLASHING DETAIL
- (G) STANDING SEAM ALUMINIUM ROOF
- (H) FEATURE FINISH, DRI-DESIGN OR SIMILAR RAINSCREEN CLADDING WITH OXIDISED COPPER FINISH
- (J) PPC RAINWATER PIPE, RAL TO MATCH FLASHINGS

FOR ILLUSTRATIVE PURPOSES ONLY

REVISION: P01 BY: JAH CHECKED: ARB DATE: 18/12/2020
Marked as indicative.
REVISION: P0 BY: JAH CHECKED: CM DATE: 28/08/2020
Initial issue

PLANNING

PLOT DATE:

David Lloyd
CLUBS

CLIENT:

SHAWFAIR PARK

PROJECT:

PROPOSED INDICATIVE
GA ELEVATIONS

DRAWING: JAH SCALE: 1:100 @ A1 DATE: AUG 2020

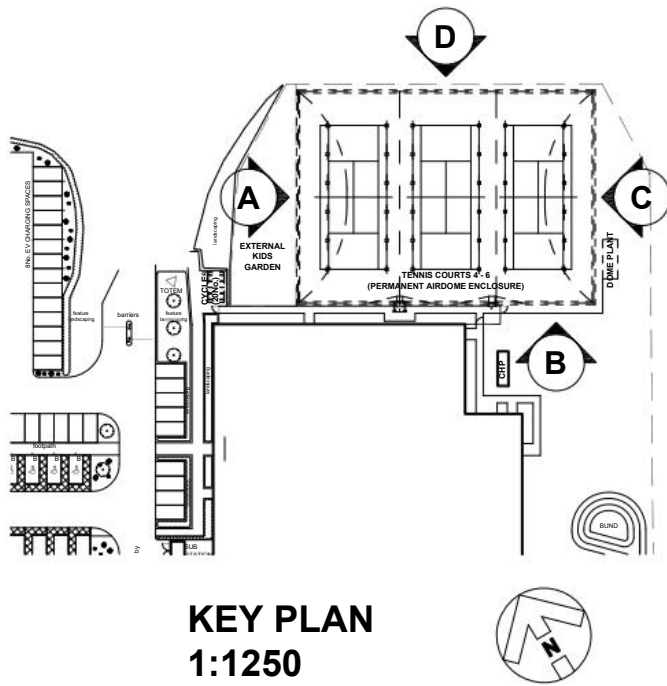
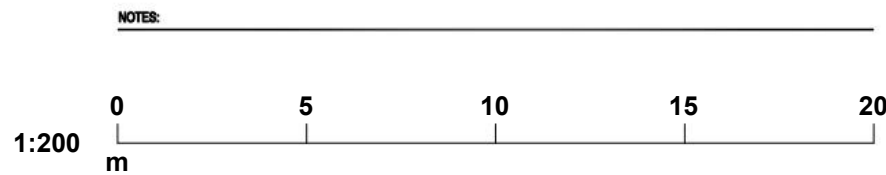
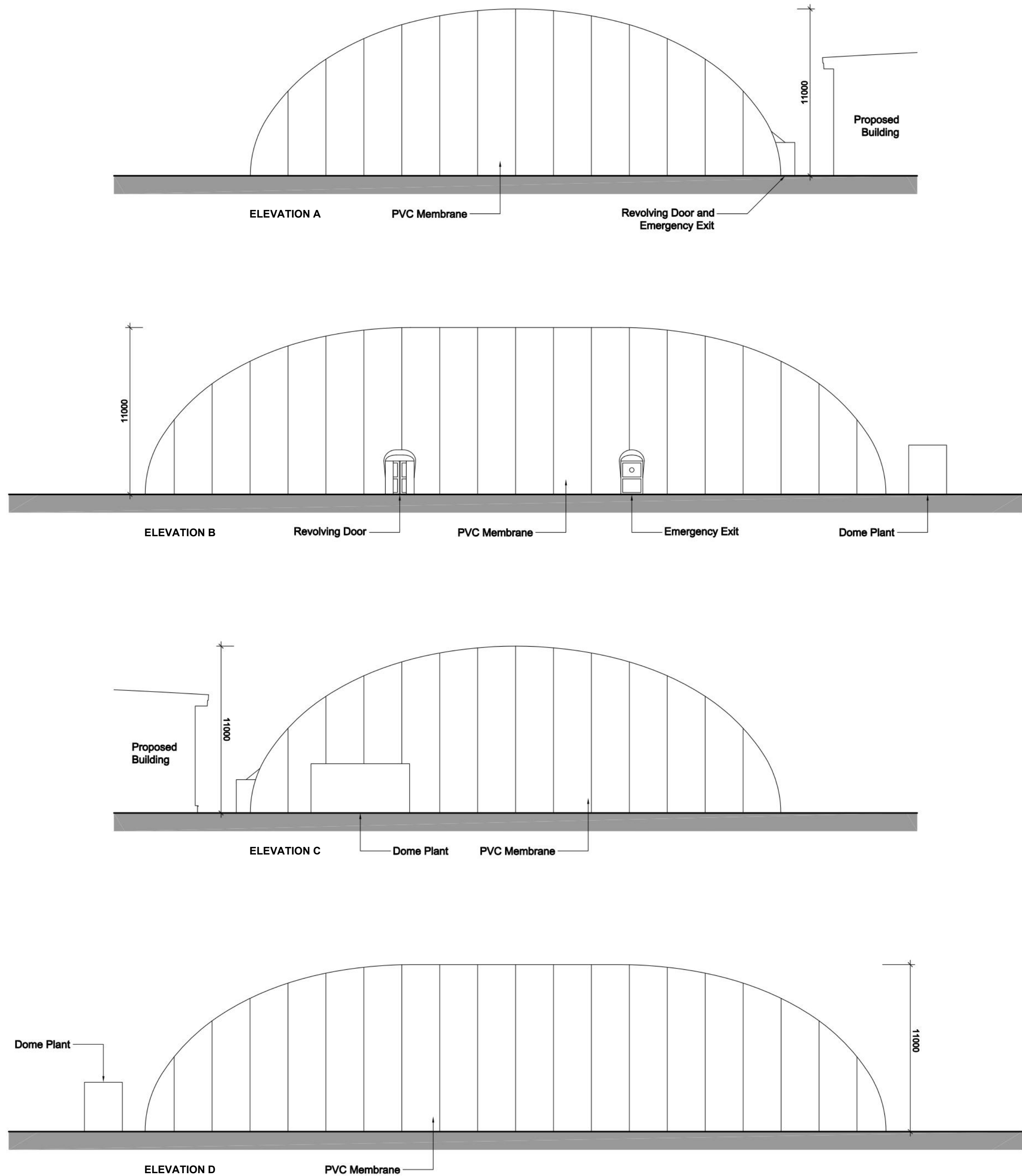
Hadfield Cawkwell Davidson

Broomgrove Lodge, 13 Broomgrove Rd, Sheffield, S10 2LZ T 0114 266 8181 www.hcd.co.uk

Architecture | Engineering | Interior Design | Masterplanning | Urban Design

JOB NO: 2017-245 DRAWING NO: PL-05-010 REV: P01

S:\Architecture\2017-245\Drawings\DR - Plotsheets\Planning\Shawfair_PL-05-010_Proposed GA Elevations.dwg | 4/102



FOR ILLUSTRATIVE
PURPOSES ONLY

REVISION: P01	BY: JAH	CHECKED: ARB	DATE: 18/12/2020
Initial issue			
REVISION: P0	BY: JAH	CHECKED: CM	DATE: 28/08/2020
Initial issue			

PLANNING

PLOT DATE:

David Lloyd
CLUBS

CLIENT:

SHAWFAIR PARK

PROJECT:

PROPOSED INDICATIVE
TENNIS DOME
ELEVATIONS

DRAWING:	SCALE:	DATE:
DRAWN BY: JAH	1:200 @ A2	AUG 2020

Hadfield Cawkwell Davidson

Broomgrove Lodge, 13 Broomgrove Rd, Sheffield, S10 2LZ T 0114 266 8181 www.hcd.co.uk

Architecture | Engineering | Interior Design | Masterplanning | Urban Design

JOB NO:	DRAWING NO:	REV:
2017-245	PL-05-011	P01

S:\Architecture\2017-245\Drawings\DR - Plotsheets\Planning\Shawfair_PL-05-011_Proposed Tennis Dome Elevations.dwg | © HCD



SECTION 42 APPLICATION 20/00312/S42 TO AMEND CONDITION 1 (TO INCREASE THE NUMBER OF DWELLINGS IN PHASE ONE FROM 350 TO 430) IMPOSED ON A GRANT OF PLANNING PERMISSION 14/00910/PPP FOR RESIDENTIAL DEVELOPMENT, THE ERECTION OF PRIMARY SCHOOL AND MIXED USE DEVELOPMENT AT LAND AT CAULDCOATS, MILLERHILL, DALKEITH

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 Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 At its meeting of December 2017 the Committee were minded to grant planning permission in principle for residential development, the erection of a primary school and for mixed use development at land at Cauldcoats, Millerhill, Dalkeith subject to a planning obligation securing developer contributions and conditions. Following the conclusion of the planning obligation planning permission was issued in July 2019. This Section 42 application seeks to amend the wording of Condition 1 attached to planning permission 14/00910/PPP to increase the maximum number of dwellings built within phase 1 of the development from 350 to 430 dwellings. An increase of 80 dwellings.**
- 1.2 Nine representations have been received (including multiple representations from the same household and one petition from multiple local residents) and consultation responses from; Scottish Environment Protection Agency (SEPA), The Coal Authority, Scottish Water, Nature Scot (formerly Scottish Natural Heritage), the Council's Policy and Road Safety Manager, the Council's Flooding Officer, the Council's Environmental Health Manager, the Council's Housing Planning and Performance Manager, the Council's Head of Education and Danderhall and District Community Council.**
- 1.3 The relevant development plan policies are policies 5 and 7 of the Edinburgh and South East of Scotland Strategic Development**

Plan 2013 (SESPlan1) and policies STRAT 3, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV17, ENV18 ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017 (MLDP).

- 1.4 The application is accompanied by the previously approved Environmental Impact Assessment (EIA) and an updated suite of EIA information, which considers the likely environmental impacts of the proposal. The results demonstrate that there would be no change to the likely significant adverse environmental impacts associated with the proposed development, as amended, and that these could be mitigated by a series of mitigation measures within the approved EIA or updated EIA information identified via a new, and comprehensive, Schedule of Mitigation.**
- 1.5 The recommendation is to grant planning permission in principle subject to conditions and the applicant entering into a Planning Obligation to secure contributions towards necessary infrastructure and the provision of affordable housing.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is located on the northern boundary of Midlothian with the land to the north being within the City of Edinburgh Council area. The site is approximately 31.2 hectares and is predominantly in agricultural use.**
- 2.2 The former Niddry Bing is located to the northwest of the site and includes land both within and outwith the boundary of the site.**
- 2.3 The majority of the site is former agricultural or countryside land that falls from south to north. However, there are some significant level changes in the north western corner of the site reflecting the former use a bing. The site is bounded to the north by Fort Kinnaird Retail Park (in part) and a vacant parcel of land (with extant planning permission for housing development (now expired) and subject to a recent Proposal of Application Notice for residential development issued by the City of Edinburgh Council (20/00529/PAN).**
- 2.4 Land to the east of the site is identified in the Shawfair Masterplan for business and industrial development. Planning approval was recently issued on this site to vary the mix of acceptable uses approved within the site (19/00748/PPP). Immediately to the east of the site is Whitehill Road which serves Fort Kinnaird Retail Park and the zero waste site at Millerhill. This site contains an anaerobic digestion plant and a recycling and energy recovery centre. There is a C class road bounding the site to the south and partially to the east with agricultural land beyond, including Cauldcoats Farm and Steading buildings. The site is bounded to the west by the A6106 (The Wisp).**

- 2.5 A number of commercial and residential properties lie to the south west of the site, on the western side of the Wisp. Two commercial properties are also located within the south western corner on of the site, adjacent to two residential properties fronting the Wisp that are excluded from the site. To the west of the A6106 (The Wisp) lie residential developments located within Greendykes and Hunter's Hall Public Park beyond.
- 2.6 A small watercourse, the Magdalene Burn, runs along part of the northern boundary of the site flowing from west to east.
- 2.7 There is a public footpath link to the west of the site which links the site to the Edinburgh Royal Infirmary and Little France.

3 PROPOSAL

- 3.1 This 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 one condition (Condition 1) on Planning Permission 14/00910/PPP to increase the maximum dwelling numbers within Phase 1 from 350 dwellings to 430 dwellings.
- 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 permission 14/00910/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 bold text below is the proposed amendment (addition) to Condition 1 of planning permission 14/00910/PPP and the strikethrough text is the original text (deleted).

*1. This planning approval is for the first phase of development identified on drawing reference number **14008(SK)650_C titled 14008(PL)003A and titled 'Indicative Development Framework Phase1 'INDICATIVE LAYOUT S42 APPLICATION' and dated the 7 May 2020** ~~14008(PL)003A and titled 'Indicative Development Framework Phase1. The number of dwelling units approved for this site is limited to 350~~ **430**, unless otherwise agreed by way of a*

planning application. The ~~proposed~~ revised Indicative Development Framework submitted as part of this planning application is not approved as the Masterplan for the site. Development shall not commence until an application for approval of matters specified in condition regarding an overall Masterplan for the site has been submitted to and approved in writing by the planning authority.

- 3.5 This application is also accompanied by the following documentation:
- i. Original (approved) EIA & Technical Appendices;
 - ii. Updated EIA Information including: Updated Transport Assessment; Updated Air Quality Assessment Addendum; Updated Landscape and Visual Impact Re-Assessment; Updated Flood Risk Assessment – Addendum Review; Updated Ecological Assessment; and
 - iii. Other updated documentation including: Addendum Report - EIA Mitigation Report; Supporting Statement; and
 - iv. Indicative Masterplan - which shows:
 - Additional residential development blocks within the north-eastern part of the site (in lieu of a commercial area) and the centre of the site (previously identified as future phases of development).
 - relocated SUDS infrastructure positioned within the northern part of the site; and
 - additional residential flatted blocks along the western boundary, along the Wisp.
 - repositioning of the school to the centre of the site.

4 BACKGROUND

- 4.1 The following summarises the relevant planning history for the site.
- 14/00553/PAC - A Proposal of Application Notice (PAN) for housing and associated mixed use development with open space landscaping, access, suds and infrastructure was submitted in July 2014. This PAN outlined the proposed pre-application approach for a forthcoming planning application for the proposed development. Confirmation that the proposed pre-application consultation approach was acceptable was confirmed in August 2014.
 - 14/00245/SCR - An EIA Screening Opinion Request was submitted in April 2014 to confirm if an EIA was required to accompany any forthcoming application for the proposed Development. In April 2014 the Planning Authority confirmed that an EIA was not required. However, a voluntary EIA was submitted for the corresponding planning application (refer below).
 - 14/00910/PPP – An application for planning permission in principle for residential development, the erection of a primary school and for mixed use development was submitted in December 2014. This application was accompanied by an Environmental Impact Assessment for 650 dwellings, mixed use commercial development components and a primary school. This application was approved in July 2019.

5 CONSULTATIONS

- 5.1 The **Scottish Environment Protection Agency** does not object to the application but requires the detailed layout to be informed by the accompanying Flood Risk Assessment, taking cognisance of any nearby channel realignment/development, the Niddrie Burn Flood Study, SPP and SEPA Guidance. This section 42 application does not change SEPA's position concerning groundwater and the requirements set out in condition 18 of planning permission 14/00910/PPP. Finally, SEPA outline that surface water from any approved development must be treated by SUDS in line with SPP and the requirements of the Water Environment Controlled Activities Regulations (CAR).
- 5.2 **The Coal Authority** does not object to the application. They advise that as the application is accompanied by a Coal Mining Risk Assessment, which draws on the same conclusions to the original Preliminary Geo-Environmental Desk Study Report, the Coal Authority has no objection subject to inclusion of condition 6 of the original grant of planning permission, 14/00910/PPP, on any new grant of planning permission.
- 5.3 **Scottish Water** does not object to the application. There is potentially sufficient capacity at the corresponding water treatment works to accommodate future demand (albeit capacity cannot be reserved). They also advise that waste water capacity at the Edinburgh Waste Water Treatment Works cannot be confirmed and, as such, it is recommend that the applicant submit a Pre-Development Enquiry to appraise potential future connectivity. Potential conflicts on existing Scottish Water Infrastructure are also noted and further liaison will be required to resolve any potential impacts. It is also noted that Scottish Water would generally not accept any surface water connections into its combined sewer system and that strong evidence will be required to support the intended drainage plan prior to making any future connection request for such arrangements.
- 5.4 **Nature Scot** does not object to the application subject to post decision agreement on the protection of protected species.
- 5.5 The **Council's Policy & Road Safety Manager** does not object to the application subject to the conditions secured on the original grant of planning permission.
- 5.6 The **Council's Flooding Officer** does not object to the application subject to the conditions secured on the original grant of planning permission.
- 5.7 The **Council's Group Manager Environmental Health** does not object to the application. The updated EIA Information covering Air Quality demonstrates that there is a valid basis to conclude that the proposed amendment to increase units from 350 to 430 dwellings

would not result in significant adverse impacts upon air quality arising from the proposed development. The emissions associated with increased traffic flows would be negated by overestimations and drops in 'worst-case' emission scenarios elsewhere (i.e. reduced vehicle emissions since the original 2012 data was prepared). With respect to noise, the previous EIA Mitigation measures to secure amenity outcomes for existing and proposed residents during construction and operation would be acceptable subject to the conditions secured on the original grant of planning permission.

- 5.8 The **Council's Housing Planning and Performance Manager** does not object to the application.
- 5.9 The **Council's Head of Education** does not object to the application. A development of 430 dwellings could expect to generate the following number of pupils:
- Primary - 185 pupils (based on primary pupil product of 0.43 per unit); and
 - Secondary - 145 pupils (secondary pupil product of 0.338 per unit).

The site for this development lies within the following school catchment areas:

- Non-denominational primary Danderhall Primary School;
- Denominational primary St Davids RC Primary School;
- Non-denominational secondary Dalkeith High School; and
- Denominational secondary St David's RC High School

Primary

- 5.10 A significant amount of new housing has already been allocated to Danderhall and St David's RC Primary Schools and therefore additional primary school capacity will need to be provided to accommodate pupils arising from this development. The additional non-denominational primary school capacity will be provided by building new schools in the wider Shawfair area combined with a review of catchment areas. St David's Primary School will be extended to provide additional denominational capacity. A developer contribution will be required in respect of the total number of houses completed, including the additional units proposed in the application, towards the cost of providing the required primary school capacity.

Secondary

- 5.11 A significant amount of new housing has already been allocated to Dalkeith High School and therefore additional secondary school capacity will need to be provided to accommodate pupils arising from this development. This capacity will be provided at the new high school to be built at Shawfair, combined with a review of catchment areas. A developer contribution will be required in respect of the total number of houses completed, including the additional units proposed in

the application, towards the cost of providing the required secondary school capacity.

5.12 Danderhall and District Community Council objects to the proposed development on prematurity grounds outlining concerns relating to:

- Increased housing numbers;
- Substantial changes to the immediate context between Old Dalkeith Road and Niddrie Mains Road, with approximately 1,000 dwellings being recently approved/constructed;
- The potential for the provision of a further 700 additional units, accessible off the Wisp on land in the City of Edinburgh Council's (CEC) administrative area (being determined by appeal at that time);
- The outdated nature of the Transport Assessment (2014);
- A requirement for an updated transport assessment to consider transportation impacts which are reflective of the updated context and increased dwelling numbers - to validate the appropriateness, accuracy and reliability of the 2014 transport assessment assumptions/projections;
- The need for a new EIA rather than just updated the existing EIA Information;
- The rejection of SESPlan2 by Scottish Ministers because of inadequate strategic transport infrastructure; and
- The proposed amendment should only be approved once any updated transport assessment is received.

6 REPRESENTATIONS

6.1 Nine representations have been received in connection with this application (including multiple representations from the same household) and one petition representing multiple local residents. These can be viewed in full on the online planning application case file.

6.2 A summary of the objections are as follows:

- Traffic congestion and road safety concerns associated with traffic movements along the wisp and entering/egressing the site;
- Unacceptable pedestrian safety due to narrow existing footpaths;
- Increased noise generation to the detriment of residential amenity;
- Increased adverse air quality impacts associated with increased trip generation and idling queuing traffic;
- The unsustainability of the current road layout, without significant alterations;
- Failure to provide significant road realignment proposals on the Wisp/Millerhill Junction to deliver long term transport improvements in the MLDP;
- Minor road alterations fail to introduce the realignment requirements associated with an historic re-routing option (source unknown) to direct traffic away from the existing, dangerous, road alignment;
- A traffic controlled junction would fail to provide an acceptable transportation solution and result in unacceptable traffic congestion/queuing that could block existing residential driveways;

- Potential prevention of wider transportation improvements in the future (including major road realignments) by incorporating a traffic controlled junction;
- Concerns regarding the updated Transport Assessment methodology applying updates to the original data rather than using current (2020/21) traffic survey data, particularly relating to HGV numbers;
- Concerns regarding the initial updated Transport Assessment that it did not include various approved/committed developments in the nearby area (subsequently included within a subsequent update of the Transport Assessment);
- Unacceptable landscape and visual impacts, partially with respect to flatted blocks fronting the Wisp;
- Unacceptable privacy, daylight and sunlight outcomes for existing residents;
- The inappropriateness of the indicative layout with respect to the positioning of flatted blocks off the Wisp as opposed to other parts of the site;
- Potential unacceptable overland flows to existing drainage infrastructure, particularly on the existing road network;
- Loss of 'open space';
- Concerns that developer contributions should be used to upgrade existing infrastructure, particularly roads;
- Concerns with the internal road alignment and providing connectivity through the site to facilitate a 'rat-run' to Fort Kinnaird;
- Concerns relating to road congestion as outlined by Midlothian Council in a response to a greenbelt application proposal on CEC land but failing to reiterate such concerns for this site;
- Failure to approve the masterplan, as proposed for 350 units to test suitability against respective requirements; and
- The proposed amendment is contrary to the site-specific MLDP requirement for the site and immediate area.

7 PLANNING POLICY

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

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan1)

- 7.2 Whilst SESPlan1 is considered out of date (as it is over 5 years old) it remains part of the Development Plan as it has not been replaced. Consequently, the policy objectives set out by the following policies are still relevant to the determination of this application.
- 7.3 **Policy 5 (HOUSING LAND)** requires local development plans to allocate sufficient land for housing which is capable of becoming

effective in delivering the scale of the housing requirements for each period.

- 7.4 **Policy 7 (MAINTAINING A FIVE YEAR HOUSING LAND SUPPLY)** states that sites for greenfield housing development proposals either within or outwith the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain a five years' effective housing land supply, subject to satisfying each of the following criteria: (a) The development will be in keeping with the character of the settlement and local area; (b) The development will not undermine Green Belt objectives; and (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

Midlothian Local Development Plan (MLDP)

- 7.5 Policy **STRAT3: Strategic Housing Land Allocations** states that strategic land allocations identified in the plan will be supported provided they accord with all other policies. The development strategy supports the provision of an indicative 350 housing units on the site (Hs0) to 2024, with a further 200 units safeguarded for the longer term up (beyond 2024).
- 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 **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable housing; for sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.
- 7.8 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.9 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 set criteria.
- 7.10 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.

- 7.11 Policy **DEV9: Open Space Standards** requires that the Council assess applications for new development against set open space standards and seeks an appropriate solution where there is an identified deficiency in quality, quantity and/or accessibility. Where substantive development is yet to commence, support for ancillary uses will only be considered if it is likely to act as an enabler to attract further investment to that business location. In each case, planning obligations will be used to regulate the scale, nature, extent and timing of such facilities, including any advanced provision.
- 7.12 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.13 Policy **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area, including the A701 realignment.
- 7.14 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.
- 7.15 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.16 Policy **ENV2: Midlothian Green Networks** supports development proposals brought forward in line with the provisions of the Plan that help to deliver the green network opportunities identified in the Supplementary Guidance on the Midlothian Green Network.
- 7.17 Policy **ENV7: Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.
- 7.18 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.

- 7.19 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environmental.
- 7.20 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.
- 7.21 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.22 Policy **ENV17: Air Quality** states that the Council may require further assessments to identify air quality impacts where considered requisite. It will refuse planning permission, or seek effective mitigation, where development proposals cause unacceptable air quality or dust impacts.
- 7.23 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.
- 7.24 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.
- 7.25 Policy **NRG6: Community Heating** requires that, wherever reasonable, community heating should be supported in connection with buildings and operations requiring heat.
- 7.26 Policy **IMP1: New Development** ensures that appropriate provision is made for a need, which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision.

- 7.27 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.
- 7.28 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

National Policy

- 7.29 **SPP (Scottish Planning Policy)** sets out Government guidance for housing. All proposals should respect the scale, form and density of their surroundings and enhance the character and amenity of the locality.
- 7.30 SPP encourages a design-led approach in order to create high quality places. It states that a development should demonstrate six qualities to be considered high quality, as such a development should be; distinctive; safe and pleasant; welcoming; adaptable; resource efficient; and, easy to move around and beyond. The aims of SPP are developed within local development plan policies.
- 7.31 SPP states that: *“design is a material consideration in determining planning applications and that planning permission may be refused and the refusal defended at appeal or local review solely on design grounds”*.
- 7.32 SPP introduces a ‘... presumption in favour of development that contributes to sustainable development’.
- 7.33 It outlines that the planning system ‘*support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term.... to achieve the right development in the right place; it is not to allow development at any cost*’.
- 7.34 *In this regard, consideration on whether an application contributes to sustainable development should be guided by the following principles within paragraph 29 of SPP:*
- *‘giving due weight to net economic benefit;*
 - *responding to economic issues, challenges and opportunities, as outlined in local economic strategies;*
 - *supporting good design and the six qualities of successful places;*

- *making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;*
- *supporting delivery of accessible housing, business, retailing and leisure development;*
- *supporting delivery of infrastructure, for example transport, education, energy, digital and water; • supporting climate change mitigation and adaptation including taking account of flood risk;*
- *improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;*
- *having regard to the principles for sustainable land use set out in the Land Use Strategy;*
- *protecting, enhancing and promoting access to cultural heritage, including the historic environment;*
- *protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;*
- *reducing waste, facilitating its management and promoting resource recovery; and*
- *avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality’.*

7.35 SPP supports the Scottish Government’s aspiration to create a low carbon economy by increasing the supply of energy and heat from renewable technologies and to reduce emissions and energy use. Part of this includes a requirement to guide development to appropriate locations.

7.36 The Scottish Government policy statement **Creating Places** emphasises the importance of quality design in delivering quality places. These are communities which are safe, socially stable and resilient.

8 PLANNING ISSUES

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

Principle of Development

8.2 The principle of residential development, erection of a school and mixed use development (including ancillary Class 1 (Shops), Class 2 (Financial, professional and other services), Class 3 (Food and drink) and Class 4 (Business) is established by the grant of Planning Permission in Principle 14/00490/PPP. The proposed amendment to Condition 1 to increase the unit numbers from 350 dwellings to 430

dwellings within the allocated part of the site does not diminish this position. Furthermore, the site's allocation for housing under MLDP policy STRAT3 supports the principle of housing and appropriate other ancillary development and the early delivery of such sites to address the Council's five year effective housing land supply. No maximum dwelling density nor unit threshold is prescribed by the site specific allocation and therefore the proposed increase is acceptable in principle subject to achieving suitable design and amenity requirements. Moreover, the proposed development, including an increase in dwelling numbers, also accords with SPP and the presumption in favour of development that contributes to sustainable development.

Indicative Layout, Form and Density

- 8.3 As this application is to amend an application for planning permission in principle, irrespective of the proposal to increase the dwelling numbers, the detailed layout, form and density of the proposed development alongside other key design matters would require subsequent approval via matters specified in conditions (MSC) applications to consider their acceptability. Moreover, condition 1 of planning permission 14/00910/PPP expressly stipulates that the proposed masterplan is not approved. As such, it is proposed to retain condition 1 and the other corresponding conditions on any amended planning permission to require resubmission and re-assessment of an updated masterplan and any updated detailed designs/technical responses by way of a separate application for each issue.
- 8.4 Whilst not required, nor approved, the applicant has submitted an updated indicative masterplan to identify additional areas associated with phase 1 that could potentially accommodate the proposed increase in dwelling numbers. This indicative masterplan has also been prepared to identify general design parameters to inform the updated EIA information to ascertain if there are any changes to the likely significant environmental effects of the proposed development, including amendments. Initially, it appears that the additional development areas on the indicative masterplan could potentially accommodate the requisite amendments, cognisant of the above requirements and noting that consideration of any final masterplan and detailed design will be undertaken via the MSC application/s.

Environmental Impact Assessment EIA

- 8.5 The original planning application was accompanied by an EIA and various technical documents/appendices. This EIA assessed the likely significant environmental effects associated with a development proposal for 650 dwellings, a neighbourhood centre of up to 5,000sqm of class 1 (Shops), class 2 (Financial, professional and other services), class 3 (Food and drink) class 4 (Business) uses and a primary school.

- 8.6 This application is accompanied by the previously approved EIA and updated EIA information that considers the likely significant environmental effects of the proposed development (as amended to increase the proposed dwellings associated with Phase 1 from 350 to 430 dwellings). This is set against the context of the original EIA where the environmental consequences of 650 dwellings and the above commercial/educational uses was undertaken. In this regard, the EIA has been assessed against the updated Town and Country Planning Environment Impact Assessment (Regulations) 2017 as these came into force since the original grant of planning permission.
- 8.7 The Committee considered various EIA matters in determining application 14/00910/PPP. The updated EIA Information provides an up to date position on some of these topics - in particular transportation, landscape and visual impact, ecology, noise and air quality. This additional information was sought by the planning authority to clarify the updated context, to consider recent committed/approved developments since the original approval and to reflect updated guidance and/or policy requirements.
- 8.8 The updated EIA information has assisted the planning authority in assess the potential environmental effects against updates to the background context since the original approval. It also assists in the future assessment of detailed design proposals to discharge planning conditions attached to the grant of planning permission (by way of MSC applications). This position is not changed by the proposed amendments to Condition 1 to increase the unit numbers from 350 to 430 dwellings and the suitability of these EIA topics against any detailed design will be considered in detail at that time.
- 8.9 In this regard, and following consideration of this updated documentation, it is accepted that the reasoned conclusions of the approved EIA are still up to date. Accordingly, the likely significant environmental effects of the proposed development do not change and the corresponding EIA conclusions are not impacted by the proposed amended to increase unit numbers. As such, the proposed development should generally present an opportunity for potential longer term environmental benefits subject to the implementation of the approved and some additional mitigation measures (to reflect the updated policy and regulatory context) which, if undertaken, in a sensitive manner could enhance the environment for the benefit of wildlife, the local landscape, drainage, pollution prevention and future recreational and agricultural uses.

Transportation & Access

- 8.10 The application 14/00910/PPP was accompanied by both an EIA and a transport assessment. The approved EIA accompanies this S42 application alongside an updated transport assessment addendum which considers the potential impact of the proposed increase in

dwelling numbers to 430 units and traffic generation from committed/approved developments since the original assessment was undertaken. This includes development proposals at Greendykes, Edmonstone, land off the Wisp and Shawfair.

- 8.11 It outlines that the predicted trip generation associated with the additional 80 dwellings was already considered by the agreed trip rates within the original transport assessment - which assessed a total of 650 dwellings within the site. The impact of 350 dwellings was assessed as the first of a multi-phase development within the site and the original transport assessment considering a 'worst-case' situation should all 650 dwellings (and the other non-residential uses) be constructed. As such, the impact of increased unit numbers in phase 1 has been fully considered by the previous assessment. The updated transport assessment also breaks down the assessment to consider the potential impact associated with the proposed increase in more detail. It is concluded that an additional 32 two-way vehicle trips in the morning peak and 26 two-way vehicle trips in the evening peak. The updated transport assessment then concludes that cumulatively, there would be a minor increase on nearby road junctions (up to 1.8%) with a combined increase of less than 5% - which would have a minimal impact on the surrounding road network when committed/approved developments (agreed in 2021) are included in the assessment.
- 8.12 The Council's Policy and Road Safety Manager has raised no objection to the proposed amendment to condition 1 subject to the replication of the previous conditions attached to the original approval. Consequently, the proposed access arrangements are deemed to be acceptable in principle subject to receipt of the detailed designs required by these conditions.
- 8.13 In this regard, the previously proposed mitigation measures and road improvements would be retained including: junction improvements to the A7/Wisp (via developer contributions); improvements to the Whitehall Road link road; and a realigned road alignment to facilitate a signal controlled junction at the Wisp/Millerhill Road.
- 8.14 Assertions from objectors that fundamental road alignments of the Wisp would be required to implement an historic rerouting/realignment of the Wisp through the site to Fort Kinnaird is not correct. The Council has no plan to fundamentally realign the wisp through the site and the references to the realignment within the MLDP relate to alterations to the existing Wisp alignment to accommodate the anticipated improvements (i.e. traffic controlled junction) required by condition on the previous approval. This position has been confirmed by the Council's Policy and Road Safety Manager. Moreover, the CEC have confirmed that the proposed development, including the proposed amendment, would not constrain future delivery of any transport infrastructure delivery on the adjacent site to the north (and currently

safeguarded for transportation interventions within the CEC local development plan.

- 8.15 Additionally, the applicant outlines that the residual effects relating to transportation and access within the EIA remain the same for the proposed development, including the proposed dwelling increase. Previously agreed mitigation measures to reduce potential adverse impacts during construction would be maintained resulting in negligible and not significant effects. This would include agreement and implementation of a construction traffic management plan and other on-site measures. Similarly, during operation, review of potential impacts on the surrounding road network outlines that the proposed development, would either result in negligible or minor adverse but not significant impacts. Pedestrian delay and amenity were also considered to be negligible or minor adverse. The Council's Policy and Road Safety Manager agrees with these findings, particularly as the EIA considered a 'worst case' scenario that included 650 dwellings.
- 8.16 With respect to contributions to secure improvements, the applicant suggests that the public transport and transport infrastructure contributions required by the current planning obligation would remain and that the proposed amount and timetabled receipt/delivery would not change. It is accepted that the specific transport infrastructure requirements would still remain applicable but the amount of contributions would be required to be increased to reflect 430 dwellings in lieu of 350 dwellings.

Noise

- 8.17 The proposed increase in unit numbers, and small increase in traffic generation, is not considered to result in additional cumulative noise impacts to the surrounding area - which would remain negligible in line with the approved EIA. Potential noise generation associated with construction of the additional units, during construction, has already been assessed given that the EIA considered impacts associated with 650 units on the site. Accordingly, subject to implementation of the previously approved mitigation measures (including best practice site management and implementation of a construction environment management plan (CEMP)), the likely environmental effects with respect to noise during construction would remain not significant.
- 8.18 In terms of noise generation for existing and future residents, traffic noise from the Wisp dominates the current context and to a lesser extent the existing commercial uses. The proposed increase in units could potentially be located within proximity to these noise sources. However, the proposed increase in units does not alter the background noise context nor the previous requirement to implement various EIA mitigation measures for such properties in such instances. Therefore, subject to inclusion of these measures - including suitable double-glazing/attenuation on sensitive windows facing these noise sources - it

is predicted that the noise levels inside any new buildings would comply with the World Health Organisation's peak noise criteria for bedrooms and the Council's internal noise requirements. Further investigation to ensure compliance with the Council's external garden noise will be required, and can be undertaken as in association with approval of any future masterplan and/or the detailed design for such areas. The proposed increase does not change the impact associated with ambient noise levels, which are not considered to increase significantly for properties neighbouring the development in line with the conclusions of the previously approved EIA – which concludes that such impacts would be negligible. Re-including Condition 16 from the previous permission on any grant of planning permission would ensure that any potential significant adverse noise impacts could be avoided. The Council's Environmental Health Manager agrees with this position and does not object to the proposed development, as amended, on noise grounds.

Air Quality

- 8.19 An addendum to the Air Quality Impact Assessment (AQIA) that accompanied the original application (EIA Technical Appendix 10.1) was submitted in January 2021. This report provided an updated assessment of potential air quality impacts associated using an updated baseline position from 2020. This included increased trip generation from committed/approved developments and updated data on current road capacity from 2020 onwards within the local road network.
- 8.20 Based on the above, the increased annual average daily traffic flows were noted and subject to an Emission Factor Toolkit which allowed comparison of the original 2012 AQIA emissions data against a '2020 update' to review the potential change. The outcome outlines that emissions from road traffic would be reduced by levels of between -29% to -76% at agreed key receptors. The applicant outlines that such outlines would be expected given that such highly conservative (overestimated) emissions factors were applied to the original assessment and the significant improvements in emission reduction technologies within more modern cars. Therefore, the applicant contends that even with higher trip generation associated with the committed/approve developments and the 2020 local network scenario, the potential pollutant concentrations would be the same or lower than the original assessment at the key receptors. The addendum to the AQIA has been received by the Council's Environmental Health Manager who agreed with these findings and concludes that there would be no unacceptable adverse impacts on air quality arising from the proposed increase in units' numbers from 350 to 430. Accordingly, the original approved EIA mitigation measures (including best practice construction and site management techniques, waste management, tree planning, increased public transport incentives and car sharing opportunities) are still applicable and will be required to be

implemented to ensure that the environmental effects associated with air quality remain negligible.

Landscape and Visual Impact Assessment (LVIA)

- 8.21 A re-assessment of the original EIA Chapter 7 LVIA - has been undertaken to consider the likely landscape and visual impacts associated with the proposed increase in unit numbers. To this extent, the LVIA re-assessment reviews the updated indicative masterplan from a series of LVIA viewpoints, which could be directly affected by the proposed changes, to ascertain if there would be any additional adverse impacts within the most recent landscape and built form context. The key to this assessment is not to consider the proposed amendments specifically as the indicative masterplan was not approved by the original application but to compare how the proposed increase in unit numbers could be accommodated within the site more generally and whether these amendments have the potential to result in any additional significant adverse landscape and visual impacts.
- 8.22 In this regard, the LVIA re-assessment outlines that the proposed amendments to the indicative masterplan would be localised, of a small scale and not significant. The applicant contends that the similar layout maintains the same effects from key viewpoints. To the north, the LVIA re-assessment states that the construction of a new industrial building at Fort Kinnaird combined with the replacement of commercial buildings with dwellings would also reduce likely adverse effects from some viewpoints 4. Finally, views from the west result in increased massing associated with increased built form along the Wisp (opposite the nearby commercial premises). However, it is suggested that this would not alter the perception of change to receptors on the Wisp previously accepted and that opportunities for additional landscaping along this boundary would maintain the same likely adverse impacts – i.e. moderate to major adverse before mitigation is implemented. With landscape mitigation, this could be reduced to minor - moderate adverse in line with the original EIA Statement of Significance for visual effects.
- 8.23 Overall, the rapid level of change being experienced and/or anticipated within this area is acknowledged - which sets the context through which the proposed amendment would be viewed. In considering this context, the findings of the LVIA re-assessment are broadly accepted and the scope of the proposed amendment is not considered to result in any additional significant adverse landscape and visual effects, when compared to the original LVIA findings. However, despite any acceptance of potential amendments, a coherent landscape framework will still be required to ensure that the proposed development creates a positive landscape contribution and achieve sustainable place-making objectives. Accordingly, any approved amendment would require the indicative masterplan and any detailed layouts to implement the previously approved LVIA mitigation measures to achieve such

outcomes - including maintaining/enhancing vegetation to create landscape buffer/structure planting along site boundaries and creating landscape areas within the site and along arterial routes. These could be delivered by replicating the previous landscaping conditions on any amended planning permission.

Ecology

- 8.24 The original EIA included an assessment of likely effects on the environment with respect to ecology and nature conservation. This included an ecological survey and protected species surveys including bats (roosting potential surveys and activity surveys) and a badger survey. An updated ecology report has been prepared to assess potential changes to the existing habitat - which comes to the conclusion that the site has low ecological value but that opportunities to retain existing hedgerows and trees should be considered as part of any detailed design. With respect to invasive species, it outlines a requirement for a detailed invasive non-native species survey to consider the extent of this feature within the site. Surveys took place for badgers, however no setts nor activity were found within the site or the study area. A requirement to undertake a pre-construction badger survey is maintained from the previous EIA.
- 8.25 In addition, a bat roost potential survey was undertaken to consider the potential suitability for bat roosts within the site, with only one structure (an existing derelict building) showing as having moderate potential. No additional bat activity surveys were undertaken (as it was outwith the corresponding survey season). However, it was acknowledged that such surveys were undertaken to inform the previous EIA - which outlined that the proposed development would not adversely affect bat populations. The planning authority accepted this approach previously when approving the original planning permission. Nevertheless, there will still be a requirement to undertake bat activity surveys (and a badger survey) to inform any future scheme of sustainability/biodiversity. Specifically, condition 10 of the original permission requires receipt of updated surveys for invasive non-native species and all protected species to inform the scheme – this requirement can be secured by a condition on any grant of planning permission.
- 8.26 Nature Scot does not object to the proposed development, noting the potential for the ‘post-decision’ submission of protected species surveys for bats, however, outlines that this approach risks that any planning permission may not be implementable if post-decision surveys for a protected species license are not approved. This point is noted by the applicant, who has advised that they will undertake the relevant surveys as soon as practical, in season, to ensure that any licensing measures can be approved. The planning authority accept this arrangement, in this instance, given the presence of the previous

protected species surveys supporting the original permission and the negligible risk to bat populations accepted in the approved EIA.

Flood Risk

- 8.27 An addendum review of the original flood risk assessment (FRA) has also been submitted by the applicant to outline whether the proposed amendment could result in any additional significant impacts from a flooding perspective. Initially, this included a review of the updated policy and SEPA Guidance since the original application. This now includes a requirement for the proposed primary school to be located outwith the 1 in 1000 storm event, which will be required via subsequent review of FRAs for any detailed design of the proposed school. Additional assessments also considered reviewed recent flooding and catchment data (including a climate change factor) in line with SEPA's updated guidance. The results maintain a requirement to consider risks associated with a potential blockage of a long culvert (as per the original FRA conclusions) outlining specific mitigation measures that could be introduced - including nominating specific finish floor levels for buildings to prevent any risk to flooding to buildings within this area. Such measures will be required to be considered in detail at the detailed design stage as the indicative layout is not yet approved and the precise location/finished floor level for any proposed buildings has not yet been confirmed.
- 8.28 Overall, the updated FRA addendum outlines that any development blocks within the site would not be subject to the 1 in 200 year storm event (including climate change) reflective of the original FRA conclusions and that overland flows could be managed by suitable SUDS attenuation measures. It also outlines that conditions on the original planning permission could satisfy the respective requirements for updated FRAs to ensure that any detailed layout is not at risk of flooding and would not lead to unacceptable flooding elsewhere. The Council's Flooding Officer agrees with this position and does not object to the proposed amendment subject to reinsertion of the previous condition requiring submission and approval of detailed flooding/drainage information via any future MSC application/s. Moreover, SEPA do not object to the proposed development subject to replication of condition 17 requiring receipt of a detailed FRA addressing issues associated with the nearby channel realignment and potential culvert blockage as per their previous comments.

Developer Contributions

- 8.29 If the Council is minded to grant planning permission to increase the number of units from 350 dwellings to 430 dwellings in phase 1, it will be necessary for the applicants to enter into a new planning obligation to secure the provision of, or a contribution towards, the following matters:

- A contribution towards primary and secondary denominational and non-denominational education and the reservation of land for a potential primary school on the site;
- The provision of affordable housing (25% of the total number of units);
- A contribution towards Borders Rail;
- A contribution towards the A720 Sheriffhall roundabout improvement and other local road improvements;
- A contribution towards public transport/public transport infrastructure;
- A contribution to cover the costs of drafting and promoting Traffic Regulation Orders; and
- A contribution towards the maintenance of open space, play provision and SUDS.

8.30 Scottish Government advice on the use of planning obligations is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:

- necessary to make the proposed development acceptable in planning terms (paragraph 15);
- serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans;
- relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19);
- fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23); and
- be reasonable in all other respects.

8.31 The requirements as set out above meet the stated tests.

Other Matters

8.32 Concerns were raised by objectors regarding the existing capacity of general practice medical facilities within the immediate area and the potential impacts of new housing on the capacity of health and care services. This matter is required to be addressed by the Midlothian Health and Social Care Partnership through the provision of sufficient health service capacity. That can involve liaison with the Council as planning authority (and initial discussions on this have been undertaken at a strategic level) but it is not, on its own, a sufficient basis in itself on which to resist or delay the application.

8.33 Regarding matters raised by represents and consultees and not already addressed in this report:

- Implications to potential access to/from existing driveways to properties along the Wisp. The proposed increase in unit numbers

would not specifically reduce access to existing driveways as any proposed change would be focused on designing an appropriate layout for the additional units within the site. Nevertheless, it is acknowledged that additional trips would be experienced - from a baseline of 350 units - however this is well within the 650 dwelling total that was assessed as part of the original EIA. To this extent, condition 5 of the original permission requires the approval of various access and road upgrades/junction improvements (including a signalised junction at the Wisp/Millerhill Road). Any approved amendment would include this condition, which then required the Council's Policy and Road Safety Manager to approve any detailed road layouts - which includes consideration of potential impacts to existing driveways etc.

- The preservation of the amenity of existing nearby residents. The indicative masterplan is to be approved by a separate MSC application. However, the indicative masterplan outlines that sufficient provision could be made to facilitate compliance with the Council's design and amenity design standards. Moreover, planting could be proposed along the western site boundary, opposite existing residential properties, to soften the built form and create visual screening which should prevent unacceptable offsite amenity impact to existing residents, subject to approval of a detailed layout within the corresponding phases of development.
- Concerns relating to the use of outdated traffic flow figures. However, the scope of the updated transport assessment and the use of these figures was confirmed by the Council's Policy and Road Safety Manager (including the inclusion of updated committed/approved developments) as any traffic surveys undertaken during the current Covid-19 public health emergency in 2020/21 would likely underestimated potential 'worst-case' traffic surveys that the corresponding transport and air quality assessments would be based on.
- Concerns that up to 700 additional units on CEC land (currently being determined by appeal) would lead to increased transportation impacts. The impacts associated with other approved/committed developments were included within the updated transport assessment and assessed in this report.
- A query asking whether updated EIA Information would be required, was resolved shortly after receipt of this representation, when updated EIA Information was submitted to cover various EIA topics.
- The rejection of SESPlan 2 should impact decision making and that any approval should not be forthcoming until an updated transport assessment reflects the transport priorities within SESPlan2. The rejection of SESPlan 2 does not require planning application decisions to be delayed. Rather, it means that SESPlan1 was not replaced by an updated strategic development plan as SESPlan2's strategic transport ambitions were found to be defective. Decision-makers are still required to make planning decisions in accordance with the development plan unless material consideration indicate otherwise. Determination of this application has been undertaken in

line with this requirement including the adopted MLDP, SESPlan1 and other material considerations including SPP and its presumption in favour of sustainable development.

- Unacceptable privacy, daylight and sunlight outcomes for existing residents were noted. However, the indicative masterplan (not approved) includes sufficient setbacks that could preserve visual and amenity requirement for existing residents and these will be required to be tested against the Council's amenity standards via any future MSC applications to approve the detailed design.
- A potential loss of open space was identified, however, such matters would be considered at the detailed design stage to consider any proposed layout against quantitative and qualitative requirements.
- Concerns with the internal road alignment and creating a layout that could facilitate a 'rat-run' to Fort Kinnaird is a matter to be considered at the detailed design stage to ensure the creation of an appropriate transportation and access arrangement.
- Midlothian raised traffic concerns during an appeal in the ECE administrative area – this is inconsistent with the assessment of this application. In response, the Council's position in considering potential traffic generation associated with an unallocated green belt site within CEC differs from the current application as any traffic generation would not have been included within strategic transport appraisal that accompanied Midlothian's or the CEC local development plan. This site is allocated for housing in the MLDP.

- 8.34 The following matters have been raised in representations which are not material considerations in the determination of the application:
- Procedural matters which are specified by the Scottish Government in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – in particular relating to the alleged failure of the planning authority to consult existing residents on the previous application in 2014. However, the planning authority's records show that neighbour notification was correctly undertaken and letters were issued to properties within 20m of the previous application boundary.

9 RECOMMENDATION

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

The site is identified as being part of the Council's committed housing land supply within the Midlothian Local Development Plan 2017 and as such there is a presumption in favour of the proposed development. This presumption in favour of development, including the proposed amendment, is not outweighed by any other material considerations. The Environmental Impact Assessment submitted in relation to the planning application, and the updated Environmental Impact Assessment Information, has been considered as part of the

assessment and it is concluded that the environmental effect of the development, including the proposed amendment, is acceptable given the various mitigation measures detailed in the Environmental Impact Assessment. Considering the benefits of the proposed development, there are no significant and demonstrably adverse effects that would outweigh a decision in favour of approval. Subject to approval of detailed design matters, via matters specified in conditions applications.

Subject to:

- i) the prior signing of a legal agreement to secure the provision of affordable housing and land for primary school and contributions towards: education provision; road and public transport infrastructure; children's play provision; open space and sustainable urban drainage systems maintenance; Borders Rail; and the payment of the necessary costs to process the required roads orders.

The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused.

- ii) the following conditions:

1. This planning approval is for the first phase of development identified on drawing reference number 14008(SK)650_C titled 'INDICATIVE LAYOUT S42 APPLICATION' and dated the 7 May 2020. The number of dwelling units approved for this site is limited to 430, unless otherwise agreed by way of a planning application. The revised Indicative Development Framework submitted as part of this planning application is not approved as the Masterplan for the site. Development shall not commence until an application for approval of matters specified in condition regarding an overall Masterplan for the site has been submitted to and approved in writing by the planning authority.

Reason: *The application has been assessed on the basis of a maximum of 430 dwellings being built on the site. Any additional dwellings would have a further impact on local infrastructure, in particular education provision, and additional mitigation measures may be required. Any such measures would need further assessment by way of a planning application.*

2. 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 residential and economic/commercial phase of the development, the provision of affordable housing, the

provision of open space, structural landscaping, SUDS provision, transportation infrastructure and percent for art. 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.*

3. Development shall not begin on an individual phase of development (identified in compliance with condition 2) 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. 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. The landscaping in the open spaces shall be completed prior to the houses/industrial buildings on adjoining plots are occupied;
 - 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);
 - x. proposed play areas and equipment (in the residential areas);
 - xi. proposed cycle parking facilities; and,
 - xii. proposed area of improved quality (minimum of 20% of the proposed dwellings across the whole site).

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 Midlothian Local Development Plan 2017 and national planning guidance and advice.

4. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential/industrial units 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. These materials will also include those proposed in the area of improved quality (20% of the total number of proposed dwellings across the whole site). 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. Development shall not begin on an individual phase of development (identified in compliance with condition 2) 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. a programme for completion for the construction of access, roads, footpaths and cycle paths;
 - ii. existing and finished ground levels for all roads, footways and cycle ways in relation to a fixed datum;
 - iii. the proposed roads (including turning facilities), footpaths and cycle ways including suitable walking and cycling routes linking the new housing with the local primary school and the rest of Shawfair;
 - iv. proposed visibility splays, traffic calming measures, lighting and signage;
 - v. proposed construction traffic access and haulage routes;,,
 - vi. proposed car parking arrangements;
 - vii. the proposed mitigation measures listed in section 7.8.2 of the Transport Assessment;
 - viii. the widening of the substandard sections of the Cauldcoats Farm Road (U46) to a minimum of 6 metres and the provision of a remote footway;

- viii. widening and lighting of footway (to a 2.5 nominal width) of the existing unlit pedestrian footway alongside Millerhill Road leading from the development to Newton Village; and,
- ix. a traffic controlled junction for The Wisp/Millerhill Road junction providing suitable traffic management and pedestrian crossing facilities.

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.*

- 6. 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/commercial 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.*

- 7. Development shall not begin until an application for approval of matters specified in conditions, including a timetable of implementation, of 'Percent for Art' has 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.*

8. Development shall not begin until an application for approval of matters specified in conditions for a programme of archaeological works (field evaluation by trial trenching) has been carried out at the site by a professional archaeologist in accordance with details submitted to and approved in writing by the planning authority. The area to be investigated should be no less than 7% of the total site area with an additional 2% contingency should significant archaeological remains be encountered.

Reason: *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with policy ENV25 of the Midlothian Local Development Plan 2017.*

9. 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 occupation of each dwellinghouse/commercial 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.*

10. 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 house bricks and boxes for bats and swifts 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.

11. 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.

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

12. Development shall not begin until an application for approval of matters specified in conditions for a scheme setting out the scope and feasibility of a community heating scheme for the development hereby approved and; if practicable, other neighbouring developments/sites, in accordance with policy NRG6 of the Midlothian Local Development Plan, shall be submitted for the prior written approval of the planning authority.
13. No dwellinghouse/commercial building on the site shall be occupied until a community heating scheme for the site and; if practicable, other neighbouring developments/sites, 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 12 and 13: To ensure the provision of a community heating system for the site to accord with the requirements of policy NRG6 of Midlothian Local Development Plan 2017 and in order to promote sustainable development.

14. No building shall have an under-building that exceeds 0.5 metres in height above ground level unless otherwise agreed in writing by the planning authority.

Reason: Under-building exceeding this height is likely to have a materially adverse effect on the appearance of a building.

15. Development shall not begin until an application for approval of matters specified in conditions for a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:

- i. signage for the construction traffic, pedestrians and other users of the site;
- ii. controls on the arrival and departure times for the construction vehicles and for site workers;
- iii. details of piling methods (if employed);
- iv. details of earthworks;
- v. control of emissions strategy;
- vi. a dust management plan strategy;
- vii. waste management and disposal of material strategy;
- viii. a community liaison representative will be identified to deal with the provision of information on the development to the local community and to deal with any complaints regarding construction on the site;
- ix. prevention of mud/debris being deposited on the public highway; and
- x. material and hazardous material storage and removal.

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: *In order to control the construction activity on the site, ensure environmental impact during the construction period is acceptable and to ensure appropriate mitigation is in place in compliance with the Environmental Statement submitted with this planning application.*

16. Development shall not begin until an application for approval of matters specified in conditions assessing the likely effects of road traffic noise (including the traffic to the Anaerobic Digestion Plant and the Recycling and Energy Recovery Centre at Millerhill) and of noise from the nearby commercial premises (to the south west of the site, to the north of the site, and to the opposite side of The Wisp) on the amenity of the future occupants of the houses has been submitted to and approved in writing by the planning authority. Any noise mitigation measures necessary to ensure compliance with the following criteria:
 - i. 50 dB LAeq(16hr) for daytime external garden amenity;
 - ii. 35 dB LAeq(16hr) for daytime internal living apartment; and,
 - iii. 30 dB LAeq(8 hour) for night time internal living apartment (excluding fixed plant controlled by NR25 or NR20 if tonal).

The night time sleep disturbance criteria shall be that contained in the WHO Night Noise Guidelines for Europe, L_{Amax} of 42 dB(A). Any recommended noise mitigation measures shall be implemented prior to the occupation of the dwellinghouses.

Reason: *In the interests of safeguarding the residential amenity of the future occupants of the houses.*

17. Development shall not begin until an application for approval of matters specified in conditions assessing flood risk and its mitigation 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 address the outstanding concerns highlighted by SEPA in relation to Flood Risk and to ensure flood risk to the development can be mitigated and the development will not increase the risk of flooding elsewhere.*
18. Prior to the commencement of development on the site a risk assessment for the proposed stabilisation of mine workings with Pulverised Fuel Ash (PFA) grout is to be submitted to and approved in writing by the planning authority, in consultation with SEPA. Thereafter any mitigation required to prevent the pollution of ground water associated with proposals to grout with PFA, shall be implemented at the site.
Reason: *To ensure any grouting does not cause unacceptable environmental impact by means of pollution of ground water.*
19. The mixed use development shall have a floor space of no more than 200 square meters and will comprise a mix of classes 1, 2 or 3, as defined in The Town and Country Planning (Use Classes) (Scotland) Order 1997 and any subsequent replacement order. Planning permission is not granted for non-residential/educational uses outwith the stated use classes.
Reason: *To define the terms of the consent and to ensure the proposal is acceptable in terms of the Midlothian Local Development Plan 2017.*
20. Construction, engineering, site delivery and any other operations shall only take place between 0800 to 1900hrs Monday to Friday and 0800 to 1300hrs on Saturdays. Any amendment of these hours shall be agreed in writing with the planning authority prior to work taking place outwith the hours stated.
21. Construction, engineering, site delivery and any other operations shall comply with following noise level: 70 dB LAeq(12hr) (façade), with the best practicable means (BPM) at all times in accordance with BS5228 guidance. All fixed plant/machinery noise shall comply with the following:
Night time (22:00 - 07:00 hrs) NR25 (internal, open window),
Day time (07:00 - 22:00 hrs) - NR30 (internal, open window)
22. Commercial/industrial/leisure noise affecting residential use (existing or proposed) when rated in accordance with BS 4142:

2014, shall be less than +5dB above an agreed representative LA90.

Reason: for conditions 20-22: To ensure noise assessment criteria are appropriate to protect residential amenity.

Peter Arnsdorf
Planning Manager

Date: 25 March 2021

Application No: 20/00312/S42

Applicant: Paladin Ventures (Cauldcoats Farm)

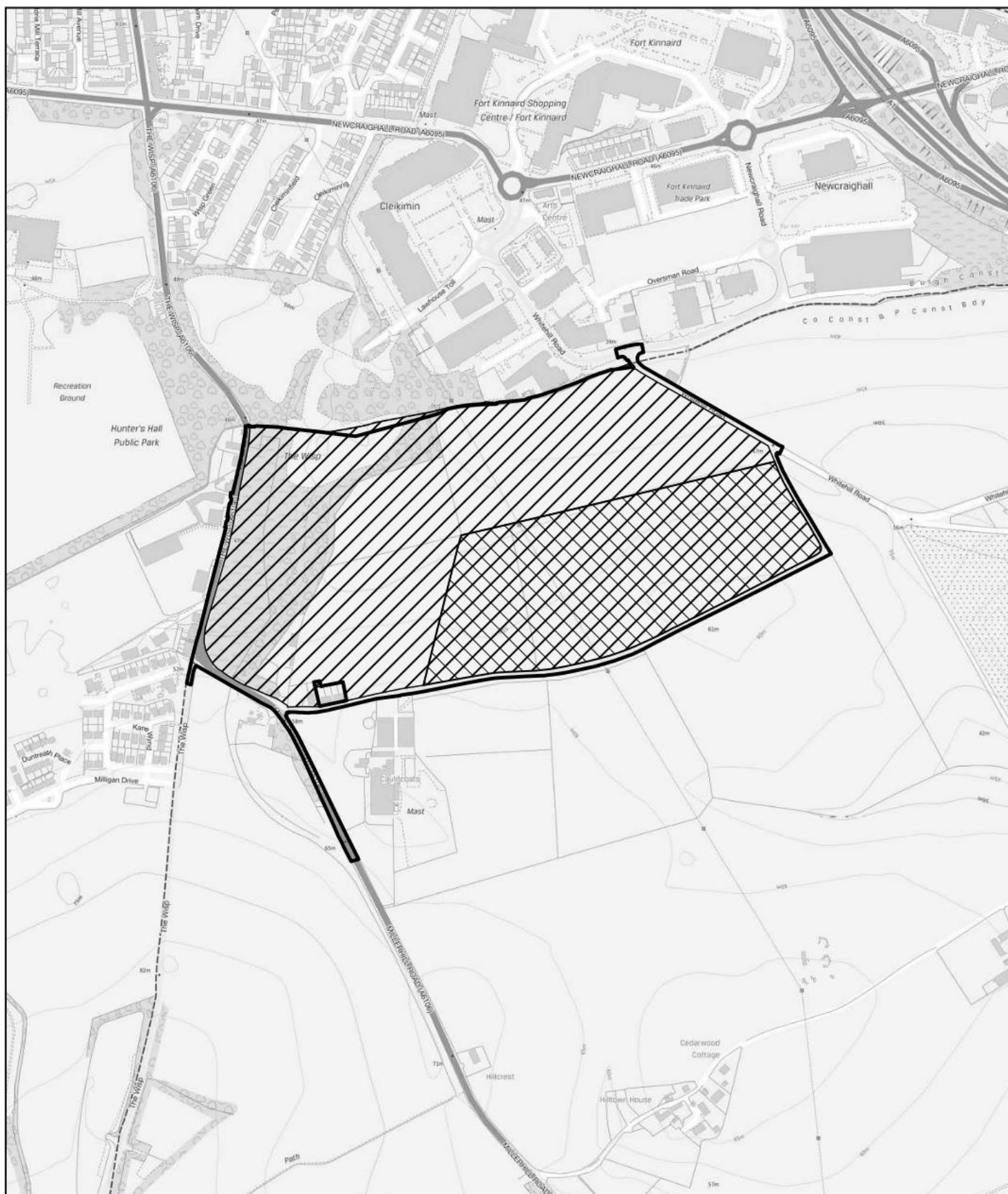
Agent: Rick Finc Associates Ltd

Validation Date: 12 May 2020

Contact Person: Steve Iannarelli



Background Papers: 14/00910/PPP, 14/00553/PAC, 14/00245/SCR

Attached Plans: Location and Indicative Site Plan



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

Section 42 application to amend condition 1 of planning permission 14/00910/PPP (to increase the number of dwellings in phase one from 350 to 430) at Land at Cauldcoats, Dalkeith

-  - STRAT 3 - Strategic Housing Land Allocation (Site Hs0))
-  - STRAT 3 - Longer Term Housing Safeguarding

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

Midlothian Council Licence No. 100023416 (2021)

Scale: 1:7,500

File No: 20/00312/S42
Page 150 of 216

2



INDICATIVE LAYOUT - S42 APPLICATION
CAULDCOATS, MIDLOTHIAN - PALADIN VENTURES

1:2000 / @A1
07.05.2020
14008(SK)650_C
PLANNING

Paladin Ventures
BREAKING BOUNDARIES

ema



APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE 20/00151/PPP FOR RESIDENTIAL DEVELOPMENT, COMMUNITY FACILITIES, PRIMARY SCHOOL AND ASSOCIATED WORKS AT SITE HS12, HOPEFIELD FARM 2, BONNYRIGG.

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 Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for planning permission in principle (PPiP) for residential development, community facilities, primary school, open space and all associated infrastructure on land at Site Hs12 and an area of land safeguarded for housing to the south west of Bonnyrigg. There have been seven representations and consultation responses from the Coal Authority, NatureScot, Scottish Water, Scottish Environment Protection Agency (SEPA), Historic Environment Scotland, the Council's Archaeological Advisor, the Council's Flooding Officer, the Council's Policy and Road Safety Manager, Council's Land Resource Manager, the Council's Environmental Health Manager, the Council's Housing Planning and Performance Manager, Council's Head of Education and the Bonnyrigg and Lasswade Community Council.**
- 1.2 The relevant development plan policies are policies 5 and 7 of the Edinburgh and South East of Scotland Strategic Development Plan 2013 (SESPlan1) and policies STRAT 3, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, ENV2, ENV4, ENV7, ENV9, ENV10, ENV11, ENV14, ENV15, ENV17, ENV18, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.3 The application is accompanied by an Environmental Impact Assessment (EIA), which considers the likely environmental impacts of the proposal. The results demonstrate that any significant adverse environmental impacts associated with the**

proposed development can be mitigated by a series of mitigation measures.

- 1.4 The recommendation is to grant planning permission in principle subject to conditions and the applicant entering into a Planning Obligation to secure contributions towards necessary infrastructure and the provisions of affordable housing.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is located within the south western corner of Bonnyrigg, approximately 1.2 km from the Bonnyrigg town centre.
- 2.2 It comprises a series of agricultural fields measuring 57.3 hectares located to the east and west of Little Wood, an established plantation woodland that bisects the site. A series of hedgerows align the field boundaries with more mature hedgerow edges along the majority of the site boundaries and juvenile landscape bunds along the north east corner associated with the Hopefield estate. The Pittendreich Burn also runs through the site, flowing north through Little Wood. The site falls gently to the east with the western areas representing the highest and most prominent parts of the site.
- 2.3 A series of pedestrian and cycle path networks also bisect the site. This includes Core Path 6-42 (which also forms part of the National Cycle Network NCN 196 connecting Penicuik to Musselburgh) which runs north south through the site. Core Path 6-35 also crosses the central part of the site, which currently comprises an existing bridleway that forms part of the Tyne Esk Trail.
- 2.4 An existing vehicular access to the site is provided via Rosewell Road – which facilitates access to the agricultural fields, existing residential properties (i.e. Dalhousie Chesters Court) and a rear access lane for properties facing Rosewell Road.
- 2.5 The site also includes a small, separate linear parcel of land running directly adjacent to the B6392, which connects the existing bridleway bridge to an existing footpath at the site's south eastern corner.
- 2.6 Critically, the site excludes the Dalhousie Chester Farm Buildings and all residential properties within Dalhousie Chesters and Dalhousie Chesters Court.
- 2.7 The site is bounded by residential properties within Cockpen Crescent to the north and properties/development plots associated with the existing Hopefield residential estate. Rosewell Road abuts the site's south western corner with a series of residential properties, a 'coachworks' vehicle repair facility and landscaped area along the site's western boundary. To the north west, across Rosewell Road, lies the

Lasswade RFC and playing fields associated with Polton Recreation Ground. Sports playing fields are also located to the north east of the site (off Bannockrigg Road) in addition to land allocated for employment use (Site e16) within the MLDP. Land under the control of the Crown Estate (and allocated for housing) directly abuts the site's south eastern corner until it meets the B6392. Further east lie agricultural fields.

- 2.8 The wider area is characterised by a range of agricultural fields, the river corridor and woodland associated with the Dalhousie Burn and a series of post-war housing and more recent housing developments of varied architectural style and character. Bonnyrigg Town Centre also provides a range of retail, commercial, leisure and educational facilities.

3 PROPOSAL

- 3.1 Planning permission in principle is sought for residential development, community facilities, a primary school, open space, drainage, means of access, engineering works, landscaping and other associated infrastructure.
- 3.2 A design and access statement and masterplan (reference: Development Framework Drawing 110238_OP_SW_DR_DF dated 09.11.2018) have been prepared by the applicant to outline the following indicative development components:
- A seven phase residential led development proposal;
 - Four new vehicular access points - from Rosewell Road (A6094), the Bonnyrigg Distributor Road (B6392), Bannockrigg Road and Castell Maynes Crescent;
 - A primary spine road running east west - providing linkages to secondary streets and with potential to connect to the Crown Estate Land to the east;
 - A development plot to accommodate a primary school;
 - A development plot to accommodate future community uses;
 - Two development plots to accommodate community growing areas;
 - Enhanced pedestrian and cycling accessibility/connectivity and extended public transport routes into the site;
 - Realignment of the existing bridle path to the south of the site to provide a suitable equestrian route;
 - Varied open space provision including land for community growing facilities;
 - Provision for sustainable urban drainage systems (SUDS) comprising SUDS basins, porous paving, filter drains and swales to suit future site layout arrangement;
 - Generally, the retention and enhancement of existing trees and woodland, including Little Wood which bisects the site;
 - Provision of a 25m wide landscape edge with noise bund (and fencing) around the western and southern site boundaries; and

- Footpath links from the edge of the existing footpath on the B6392 to the southern edge of the Bridle Path where it meets the B6392.
- 3.3 An indicative housing capacity of approximately 1,000 dwellings is identified within the masterplan and accompanying documentation. An illustrative plan has also been prepared to provide an illustration of potential built form for any future development; however, this does not form part of this application.
- 3.4 As this application is for PPiP, an accurate split on the proposed number of units within the allocated and safeguarded land cannot be provided. Moreover, the proposed phasing plan has not been aligned with aforementioned policy designations. Therefore, it is estimated that approximately 550 units could come forward within the allocated site and approximately 450 units within the safeguarded land.
- 3.5 The application is accompanied by the following documentation:
- Pre-Application Consultation Report (PAC);
 - Design and Access Statement (DAS);
 - Planning Statement;
 - Energy Statement;
 - District Heating Feasibility Report;
 - Tree and Woodland Survey and Arboricultural Impact Assessment;
 - Drainage Assessment;
 - Flood Risk Assessment; and
 - Environmental Impact Assessment (EIA) Report covering the following matters:
 - Landscape and Visual Impact, Traffic and Transport (including Transport Assessment), Ecology, Air Quality, Geology and Soils, Geo-Environmental and Geotechnical, Mining (including Coal Mining Risk Assessment), Noise, Hydrology & Hydrogeology, Archaeology and Cultural Heritage.

4 BACKGROUND

- 4.1 17/00706/SCO - Environmental Impact Assessment (EIA) Scoping Opinion Request for residential development, community facilities including primary school, open space and infrastructure. Confirmation on the level of information required to be included within the forthcoming EIA Report was confirmed on 1 November 2017.
- 4.2 The application site is larger than 2 hectares. Therefore, the application is a Major Development as defined by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. The applicant is required to undertake a 12 week period of consultation prior to the submission of an application for a Major Development, in accord with the Town and Country Planning

(Development Management Procedures) (Scotland) Regulations 2013. 17/00367/PAC - Proposal of Application Notice (PAN) for residential development; community facilities, primary school, open space and associated infrastructure. This PAN was submitted in May 2017 outlining the proposed pre-application approach the applicant sought to undertake in association with the proposed development. Various pre-application consultation events took place including one in September 2017 (community workshop) and a public exhibition (March 2018) which complied with the regulatory requirements within the Town and Country Planning (Development Management Procedures (Scotland) Regulations 2013.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application subject to conditions being attached to any grant of planning permission. The site is located within a High Risk Area where a Coal Mining Risk Assessment is required to assess potential coal mining features and hazards within the site. There are multiple records of mine entries, primarily within the western part of the site, which pose a locally high risk to the proposed development. They agree with the recommendations within the Coal Mining Risk Assessment report; that coal-mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures in order to ensure the safety and stability of the proposed development.
- 5.2 **Nature Scot** does not object to the application and make no comment on the landscape and visual impacts of the proposal, as it does not raise any issues of national interest. Neither do they offer bespoke advice on 'routine' species, which are covered/protected under a separate licencing regime.
- 5.3 **Scottish Water** does not object to the application and advise that there is potentially sufficient capacity at the corresponding water treatment works and waste water treatment to accommodate future demand (albeit capacity cannot be reserved). Potential conflicts on existing Scottish Water infrastructure needs to be resolved in liaison with the developer. Scottish Water will generally not accept any surface water connections into its combined sewer system unless strong evidence indicates otherwise.
- 5.4 The **Scottish Environment Protection Agency (SEPA)** does not object to the application subject to conditions being attached to any grant of planning permission relating to the following matters:
1. Re-consultation at the detailed design stage to ensure no increased flood risk to downstream receptors due to the replacement culvert;

2. Details to confirm that all built development, including SUDS and any land raising, is outwith the 1 in 200 year plus blockage scenario flood level; and
3. No built development over the existing culverted watercourse along the southern boundary and a buffer maintained.

SEPA also request that Midlothian Council review the proposed drainage and SUDS details to undertake their responsibility as flood prevention authority.

- 5.5 **Historic Environment Scotland** does not object to the application.
- 5.6 The **Council's Archaeological Advisor** does not object to the application subject to conditions being attached to any grant of planning permission. Whilst the advisor does not agree with all the findings within the EIA Cultural Heritage Chapter, with respect to indirect impacts, they agree that there are unlikely to be any significant impacts on the settings of designated cultural heritage assets. There will be a requirement for mitigation of direct impacts to heritage assets and to any unknown buried heritage sites - suitable mitigation is provided in the form of the measures identified in the EIA Schedule of Mitigation. Separately, a condition requiring a programme of archaeological (trial trench evaluation and archaeological watching brief) work in accordance with a written scheme of investigation is required.
- 5.7 The **Council's Flooding Officer** does not object to the application. The indicative drainage arrangements are acceptable in principle subject to the recommendations outlined to update the strategic drainage approach to include 'wet' SUDS Ponds as follows:
- Details of the proposed surface water management plan for the site should be submitted for approval. Fig 1.6 (Strategic Catchment Layout) indicates a number of detention basins being required within the development and it may be beneficial to consider changing some of the dry basins to ponds to increase biodiversity in the area.
- 5.8 The **Council's Policy and Road Safety Manager** does not object to the application subject to conditions being attached to any grant of planning permission, including:
1. As it is proposed to divert the existing Hopefield bus route through the new housing, the internal access road should forms a loop linking the stub end at Bannockrigg Road with Castell Maynes Avenue. The new loop road should be formed to a minimum width of 6.5m with bus stops and shelters being provided at suitable points along the route;
 2. Details of the proposed roundabout on the B6392 should be submitted for approval;
 3. Details of the proposed roundabout on Rosewell Road should be submitted for approval;

4. Details of the proposed off-site improvements to the local road network identified in Chapter 4 of the Transport Assessment should be submitted for approval;
5. The section of core path (National Cycle Route 196) within the site should be increased in width to a minimum of 4.0m to accommodate the additional pedestrian, cycling and equestrian usage the development will produce;
6. Due to the increase in traffic volumes the existing informal pedestrian/equestrian crossing of the B6392 should be upgraded to a traffic signal controlled crossing;
7. Residents and visitor parking should be provided to meet current council standards;
8. Publicly available electric vehicle charging points should be provided within the development;
9. Details of the proposed Travel Plan document (travel pack) for residents should be submitted for approval and be available for distribution prior to the first dwelling being occupied;
10. A separate construction vehicle access will be required for the development with measures being taken to ensure that no construction traffic use the existing vehicle routes within the Hopefield development;
11. As the development will require changes to existing speed limits on roads surrounding this site the developer should enter into a legal agreement to provide a financial contribution to the costs involved in drafting and promoting these changes; and
12. The applicant should enter into a legal agreement to provide a financial contribution to the Council's A7 Environmental Scheme. This scheme is designed to improve walking, cycling and public transport access on the nearby section of the A7.

5.9 The **Council's Land Resources Manager** objects to the proposed development as it fails to include allotment provision and, instead, proposes two community-growing areas. They outline that the lack of any allotments also fails to accord with the Council's Allotments and Community Growing Spaces guidance, which also outlines measures to implement the Council's legal duty under the Community Empowerment Act 2015. They also support and encourage the provision of a larger equipped area of play within the primary open space area in the north eastern corner of the site.

5.10 The **Council's Environmental Health Manager** does not object to the application subject to conditions being attached to any grant of planning permission in respect to ground contamination and previous mineral workings. With respect to noise, the Environmental Health Manager objects to the application on the grounds that the applicant has failed to demonstrate that all of the proposed housing units are not adversely impacted upon by day time noise (7am - 7p.m.) from the nearby coachworks (garage/workshop); night time noise (11pm - 7am) from the existing coachworks (delivery/recovery of crash vehicles) and road

traffic noise affecting the external amenity of gardens. It is advised that should the Committee be minded to approve this application it is recommended that the following conditions are attached:

1. From an assessment position 3.5 meters from the facade of any residential property (1m from the façade in the case of the upper floors) the daytime noise levels from nearby commercial industrial sources (07.00 a.m. to 07.00 p.m.) shall not exceed the background noise level by more than 5dB when rated in accordance with BS4142:2014 Methods for rating and assessing industrial and commercial sound;
2. Noise arising from the night time delivery of crash vehicles to the Coachworks (11.00 p.m. to 07.00 a.m.) should not exceed the night time sleep disturbance criteria set out in the World Health Organisation Night Noise Guidelines for Europe 2009 which is a maximum level with windows open of 42dB L_{max} (fast) (internal); and
3. A reassessment of the Road Traffic Noise shall be undertaken to identify mitigation measures necessary to ensure that the criteria of 50dB L_{aeq} (16hour) for daytime external garden amenity is complied with.

5.11 The **Council's Housing Planning and Performance Manager** does not object to the application.

5.12 The **Council's Head of Education** does not object to the application and advises that a development up to a maximum of 1,100 dwellings could expect to generate the following number of pupils:

- Primary 473; and
- Secondary 372

The site for this development lies within the following school catchment areas:

- Non-denominational primary - Burnbrae Primary School;
- Denominational primary - St Mary's RC Primary School;
- Non-denominational secondary - Lasswade High School; and
- Denominational secondary - St David's RC High School

Primary

5.13 A significant amount of new housing has already been allocated to the Bonnyrigg area and therefore a contribution will be required towards the cost of providing additional primary school capacity. Up to 1,100 dwellings represents a significant increase from 750 dwellings originally indicated in the development plan and we will therefore need to review the strategy for additional capacity at this site to ensure adequate provision.

Secondary

5.14 A significant amount of new housing has already been allocated to Lasswade High School and additional secondary capacity will be needed. This capacity is likely to be provided at Lasswade High School as a result of freeing up capacity following a catchment review and the delivery of a new secondary school in the A701 corridor. A developer contribution will be required towards the cost of any additional provision. Again the significant increase in dwellings indicated in this application will require a review of the education strategy to ensure there is suitable secondary capacity available for this development.

5.15 **Bonnyrigg & Lasswade Community Council (BLCC)** object to the application on the following grounds:

Traffic and Transport:

- The traffic increase will be greater than anything previously proposed within Bonnyrigg, exacerbating existing peak time traffic issues;
- Proposed mitigation appears to relate to modest alterations at the worst affected local roundabouts;
- Inclusion of a mandatory requirement for the HGV movements (i.e. 160) to be routed away from the centre of Bonnyrigg or residential side streets;
- The scope of the traffic survey does not cover all known traffic issues, particularly during peak periods. A new access is likely to exit via the A6094 roundabout and Polton Avenue Road/Polton Road which would contribute to traffic issues in Lasswade during peak hours;
- Concerns highlighted relating to the exacerbation of existing traffic issues along this route - particularly with the likelihood of school drops offs;
- The TA fails to consider the 'Dobbies' roundabout (B6392 & A772);
- One of the greatest increases in traffic to be seen after the cumulative effects of Hopefield 2 and other sites would be the stretch of B6392 between A7 and B704;
- The EIA incorrectly states that there would be no development on the south side of the road where pedestrians would wish to cross but a crossing is anticipated for Site Hs11 to allow pedestrian access to the local Primary school and back home again;
- The impact of this crossing needs to be factored in and its impact reassessed in the documents produced by the developer or provision of a pedestrian bridge as an alternative solution;
- Receptor Sensitivity is stated to be low despite how busy the road is as it has "no frontage to cause demand to cross nor any footways". While this may be true at present the developers cannot have failed to notice that a contribution is required from them to pay for the A7 Urbanisation; and
- The impact of the A7 urbanisation - advocated by Midlothian Council including provision for footpaths and cycle tracks - must be taken

into account and the previous report reviewed. The effects on the A7 of more traffic, more active travel and over-capacity roundabouts as well as expected new lower speed limits will be to decrease the capacity of the A7.

National Cycleway 196/Core Path through the HS12 Site:

- This path is critical to the proposed development as it provides extensive pedestrian access to the High Street, Lasswade Centre/High School and other accessible locations;
- Despite passing places, it is currently too narrow and dangerous to accommodate both cyclists and pedestrians, particularly as it is used by longer distance cyclists who do not anticipate pedestrians;
- A long-term solution requires its widening to provide dedicated lanes for cycles and pedestrians and there is sufficient land to accommodate this outcome and create segregated lanes;
- BLCC hopes this core path and national cycle path can contribute to the ambitions seemingly held by both Midlothian Council and the developers for more active travel;
- Greater use of this path is one of the few ways the traffic congestion generated by this and other developments can be ameliorated; and
- Support from the developers to widen the cycle/walking route through at least the busiest section would be much appreciated by the Community.

BLCC - Conclusion

- The MLDP allocation of 375 dwellings plus an additional 375 dwellings (750 in total) has been increased by a third to give a capacity of approximately 1000 dwellings (and a possible addition of 60 or so on the Crown Land);
- An extra 300 dwellings will put greater pressure on local roads and other infrastructure than was envisaged in the MLDP;
- Bonnyrigg is a town that has grown rapidly. Remembering that the creation of jobs within the town lags far behind the speed of house building and that our public transport network is limited, there is a high need to commute to work in cars; and
- Whilst the land is available, it represents an overdevelopment with respect to traffic generation with traffic mitigation measures inadequate.

6 REPRESENTATIONS

6.1 Eight representations have been received in connection with this application (including two representations from one household) which can be viewed in full on the online planning application case file. A summary of the objections are as follows:

- Insufficient existing infrastructure to cope with the increased number of houses proposed exacerbated by a deficiency in healthcare/medical facilities, education and community facilities to accommodate such growth;
- Failure of the proposed housing complying with Midlothian Council's design and amenity standards;

- Inappropriate setbacks to existing residential properties (particularly to the south of Dalhousie Chesters Court);
- Inappropriate road design to deter traffic movements from the existing vehicular access to Dalhousie Chesters Court and avoid its use as a through-road. Closure at its eastern end is sought;
- Failure to provide a safe route or crossing through the site for riders on horseback using the Tyne & Esk trail;
- Inappropriate housing density, significantly greater than the existing Hopefield development resulting in significant negative impacts on Bonnyrigg's infrastructure and amenity, particularly car-based travel from an increased population;
- Inappropriate access/egress routes from the site to Castell Maynes and Bannrock Rigg Roads - resulting in unacceptable road safety outcomes for children attending Burnbrae Primary School - road accesses should be to arterial roads and not to the existing Hopefield residential estate;
- Proposed through routes to the north would exacerbate existing 'rat-runs' which already contain hazardous parking and crossing points;
- Provision of east-west access routes through Little Wood would also create an unacceptable rat-run for existing residents to the detriment of traffic flows where they hit the proposed bridge;
- Insufficient justification to exceed anticipated housing provision of 750 dwelling within the wider site;
- Detrimental visual amenity impacts and views (from A6094 Roswell Road to the east and south). Insufficient consideration of external building material treatments and influence of nearby industrial heritage and historic housing stock to create a distinctive character;
- Development of an inappropriate scale and character which would be visible from considerable distances within the wider area;
- Adverse impact on recreational amenity for the wider area;
- Unreasonable overshadowing and overlooking to existing residential properties at Dalhousie Chesters Court and Dalhousie Cottages;
- Risk associated with previous mining activity (mine shafts) on the site and whether this has been considered in detail as to inform the design-led process to avoid increased density on 'low risk' areas;
- Detailed intrusive mining investigations should be provided (and remedial treatment of any working/shafts) before development should proceed to avoid any potential implications to existing residential properties within/adjacent to the site;
- Unreasonable noise impacts that would result in detrimental impacts to residential amenity;
- Potential light pollution associated with street lights;
- Detrimental residential and visual amenity impacts associated with the potential provision of flatted blocks of 3 and 4 storeys within c100-200m of existing residential properties, failing to consider the character of the adjoining area;

- Insufficient spacing of residential properties, in particular flatted blocks, would result in unacceptable losses in privacy to existing residents;
- Insufficient spread of open space within southern parts of the site.
- Potential unreasonable air quality impacts associated with increased traffic generation;
- Unacceptable use of outdated traffic flow figures;
- Provision of unsafe vehicular access to Rosewell Road and the A6094 with poor visibility;
- Failure to consider trip generation from the proposed development to the north to Hopefield 1; and
- Utilisation of outdated environmental data to assess air quality fails to reflect increased traffic flows within the immediate area and the use of projections/modelling should be avoided.

7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan June 2013 (SESPlan 1) and the adopted Midlothian Local Development Plan 2017. The following policies are relevant to the proposal:

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan1)

- 7.2 **Policy 5 (HOUSING LAND)** requires local development plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing requirements for each period.

- 7.3 **Policy 7 (MAINTAINING A FIVE YEAR HOUSING LAND SUPPLY)** states that sites for greenfield housing development proposals either within or outwith the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain a five years' effective housing land supply, subject to satisfying each of the following criteria: (a) The development will be in keeping with the character of the settlement and local area; (b) The development will not undermine Green Belt objectives; and (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

Midlothian Local Development Plan (MLDP)

- 7.4 Policy **STRAT3: Strategic Housing Land Allocations** states that strategic land allocations identified in the plan will be supported provided they accord with all other policies. The development strategy supports housing provision on the Site Hs12 (Hopefield Farm 2) with an indicative capacity of 375 units. Land has been also safeguarded to the south of Site Hs12 for potential future housing (375 units) that could

accommodate potential residential expansion south within the next local development plan if considered to be appropriate/required. Currently, the safeguarded land is not allocated for housing.

- 7.5 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.
- 7.6 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable housing; for sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.
- 7.7 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** states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, and passive energy gain, positioning of buildings, open and private amenity space provision and parking.
- 7.9 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 **DEV9: Open Space Standards** requires that the Council assess applications for new development against set open space standards and seeks an appropriate solution where there is an identified deficiency in quality, quantity and/or accessibility.
- 7.11 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 Policy **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area, including the A701 realignment.
- 7.13 Policy **TRAN5: Electric Vehicle Charging** seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.

- 7.14 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.15 Policy **ENV2: Midlothian Green Networks** supports development proposals brought forward in line with the provisions of the Plan that help to deliver the green network opportunities identified in the Supplementary Guidance on the Midlothian Green Network.
- 7.16 Policy **ENV4: Prime Agricultural Land** does not permit development that would lead to the permanent loss of prime agricultural land unless there is appropriate justification to do so.
- 7.17 Policy **ENV7: Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.
- 7.18 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.
- 7.19 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environmental.
- 7.20 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.
- 7.21 Policy **ENV14: Regionally and Locally Important Nature Conservation Sites** states that development will not be permitted where it could adversely affect the nature conservation interest of such

sites, unless it can be demonstrated that appropriate mitigation measures are in place.

- 7.22 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.23 Policy **ENV17: Air Quality** states that the Council may require further assessments to identify air quality impacts where considered requisite. It will refuse planning permission, or seek effective mitigation, where development proposals cause unacceptable air quality or dust impacts.
- 7.24 Policy **ENV18: Noise** requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.
- 7.25 Policy **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.
- 7.26 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.
- 7.27 Policy **NRG6: Community Heating** requires that, wherever reasonable, community heating should be supported in connection with buildings and operations requiring heat.
- 7.28 Policy **IMP1: New Development** ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision.
- 7.29 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be

used to secure the appropriate developer funding and ensure the proper phasing of development.

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

National Policy

- 7.31 **SPP (Scottish Planning Policy)** sets out Government guidance for housing. All proposals should respect the scale, form and density of their surroundings and enhance the character and amenity of the locality. SPP encourages a design-led approach in order to create high quality places. It states that a development should demonstrate six qualities to be considered high quality, as such a development should be; distinctive; safe and pleasant; welcoming; adaptable; resource efficient; and, easy to move around and beyond. The aims of SPP are developed within local development plan policies.
- 7.32 SPP states that “*design is a material consideration in determining planning applications and that planning permission may be refused and the refusal defended at appeal or local review solely on design grounds*”. SPP introduces a ‘...presumption in favour of development that contributes to sustainable development’.
- 7.33 It outlines that the planning system ‘*support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term.... to achieve the right development in the right place; it is not to allow development at any cost*’.
- 7.34 In this regard, consideration on whether an application contributes to sustainable development should be guided by sustainable development principles within paragraph 29 of SPP
- 7.35 SPP supports the Scottish Government’s aspiration to create a low carbon economy by increasing the supply of energy and heat from renewable technologies and to reduce emissions and energy use. Part of this includes a requirement to guide development to appropriate locations.
- 7.36 The Scottish Government policy statement **Creating Places** emphasises the importance of quality design in delivering quality places. These are communities which are safe, socially stable and resilient.

8 ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 8.1 The EIA Report accompanying this planning application considers the findings of an EIA process carried out by the applicant under The Town and Country Planning (Environmental Impact Assessment) (Scotland)

Regulations 2017. This statutory approach considers the likely significant environmental effects associated with the proposed development and outlines measures/approaches in which any significant adverse impacts can be mitigated. The statement has been prepared to consider the following matters:

Summary of EIA and EIA Schedule of Mitigation:

- 8.2 The EIA Report considers a variety of technical matters - providing a detailed assessment of these issues including landscape and visual impact, traffic and transport, ecology, noise, air quality, geology and soils, hydrology and hydrogeology, archaeology and cultural Heritage.
- 8.3 Whilst isolated examples of localised adverse impacts are outlined, the proposed development would present an opportunity for potential longer term environmental benefits subject to the implementation of measures identified within the EIA Schedule of Mitigation, which if undertaken in a sensitive manner could enhance the environment for the benefit of wildlife, the local landscape, drainage, pollution prevention and future recreational uses.
- 8.4 The EIA Report suggests that the site can accommodate around 1,000 dwellings (albeit an illustrative layout shows a figure of 900 units within the site). It then goes on to state that the accompanying EIA considers a development capacity of 1,100 new homes across the application site and on the remaining land allocated and safeguarded for residential development.
- 8.5 The applicant contends that the higher figure of 1,100 units should be applied as this is the higher of the two figures nominated. They outline that the EIA Report suggest that no proposals have come forward for the land controlled by the Crown Estate to the south east of the application site. Should the land come forward for development at a future date, then it will be appropriate for the applicant to consider capacity at that time. Accordingly, if the Council wishes to prescribe a number of units then 1,100 would be appropriate. They also state that the 1,100 is within 10% of the higher limit and the context set by the EIA.
- 8.6 However, the EIA application boundary differs from the planning application boundary, it is larger, and includes the Crown Estate land to the south east. As such, the 1,100 EIA threshold covers both sites with the EIA confirming that the application site and the Crown Estate land can accommodate up to 1,100 units, not that the application site in isolation can accommodate this amount. Given that approximately 1.5 hectares of the Site Hs12 allocation does not form part of this application (i.e. the Crown Estate land) and the maximum unit number expressly prescribed, and limited by the EIA is 1,100, it would be appropriate to restrict the capacity of the site (excluding the capacity on

the Crown Estate land). No detailed design work has been prepared to inform the capacity of the Crown Estate land, however, the accompanying transport assessment indicatively estimates its capacity at approximately 68 dwellings. If this capacity were subtracted from the overall 1,100 capacity across both sites, the maximum capacity for the application site would be 1,032 dwellings. The number of units can be limited by a condition on a grant of planning permission.

Noise:

- 8.7 The EIA outlines that, without mitigation, noise generation from road traffic (particularly for to residential development areas close to the B6392), the existing coachworks on Rosewell Road and future employment uses to the east of the site has the potential to result in significant adverse impacts to the amenity of future residents and external teaching areas associated with the proposed school. The EIA Technical Appendix 7 - Environmental Noise Impact Assessment (NIA) - considers these issues in greater detail, identifying an assessment methodology to consider respective impacts, their magnitude/effect and the level of mitigation that would be required to attenuate such impacts to an acceptable level. These are based on 'worst-case' scenarios with committed development taken into account to assess any potential cumulative impacts.
- 8.8 Following this assessment, the EIA Report outlines that a series of noise attenuation measures would be required to mitigate unreasonable noise impacts to future sensitive uses and accord with the corresponding guidelines/standards. To attenuate traffic noise, mitigation in the form of approximately 25m wide acoustic bunds (2.5m high with 1 in 2.5 gradients topped with a 1m high acoustic fence) are proposed along the south western boundary perpendicular to the B3692. This is combined with design mitigation to the orientation the buildings to provide suitable screening within private gardens and to include acoustic attenuation to the buildings themselves to mitigation unacceptable noise impacted to habitable rooms (i.e. acoustic glazing, trickle vents, insulation and mechanical ventilation and heat recovery systems). To attenuate noise from the existing coachworks, and protect its continued operation, a 3m high engineered bund with 1 in 2.5 gradient and 1m high acoustic fence was also proposed, alongside a 130m stand-off zone to the nearest residential uses, occupied by open space and non-sensitive community uses. The EIA Report outlines that NIAs would be required to accompany future MSC applications for each phase to demonstrate that mitigation objectives (required by the EIA Report) are delivered as part of the detailed design for corresponding phases. This can be secured by condition to ensure compliance with MLDP Policy ENV 18.
- 8.9 In this instance, there are four specific matters that require further interrogation to consider potential noise impacts:

- i) Noise from existing commercial uses - The Council require daytime and night-time noise to be considered against British Standard BS4142:2014 Noise Survey & Assessment.
- ii) Night time noise on sleep disturbance - Governed by the World Health Organisation Night Noise Guidelines for Europe 2009 (WHO Guidelines) which outlines maximum noise levels and low/no exceedances to avoid unacceptable sleep disturbance between 11pm - 7am using a 'windows open' assessment.
- iii) External noise to private (rear) gardens - The Council's Noise requirement requires an average of 50dB in rear gardens.
- iv) Impacts to educational facilities/school - Assessment of internal and external noise is guided by Acoustics of Schools: a design guide where maximum acceptable noise levels are set.

Noise from Commercial Uses:

- 8.10 The NIA was updated in October 2020 to address concerns/queries relating to the assessment methodology to assess commercial noise and the potential impacts. Key changes included additional noise surveys in August/September 2020 using 'measured levels' not predictions and the screening effect of the community building excluded to enable a 'worst-case' scenario assessment.
- 8.11 In response to the Council's requirements, the applicant contends that BS4142:2014 - whilst being a useful tool for undertaking noise assessment and predicting impacts, it does not provide suitable guidance to test the significance of such impacts. They suggest that the assessment of background noise should be considered in line with the assessment framework in the Scottish Government's Technical Advice (TAN) that supports Planning Advice Note 1/2011: Planning and Noise (PAN 1/2011). It is noted that the PAN 1/2011 and TAN are material considerations for decision making purposes (the latter to provide technical guidance on assessments approaches) and should be afforded weight in the determination of this application. Moreover, it is asserted that the semi-rural landscape and uncertainty of background noise levels for this assessment has results in an overly pessimistic assessment for potential noise impacts from the coachworks, particularly if the background level is subject to change with the introduction of 'louder' residential development to this former agricultural field. As such, they direct the planning authority to apply the above TAN guidance where the potential impacts on any noise sensitive receptors would be no greater than 'slight adverse significance'. They state that were such adverse impacts are identified, planning authorities often consider these to be acceptable if all other practicable mitigation measures have been adopted - which they assert has taken place in this instance. The applicant therefore recommends that any condition requiring compliance with BS4142:2014 is replaced with a condition allowing residential development in areas that comply with the TAN framework where 'slight adverse impacts' are identified.

Sleep Disturbance:

- 8.12 One of the most critical points of contention between both parties relates to which assessment methodology should be applied to consider potential night-time noise emanating from existing commercial activities and the resultant potential impact on sleep disturbance. This relates to the assessment of noise associated with the delivery of crash vehicles to/from the coachworks between 11pm and 7am. The Council's Environmental Health Manager requires a condition requiring compliance with the above WHO 2009 Guidelines to avoid unacceptable sleep disturbance. This dictates that a maximum peak noise level of 42db is applied using an open window assessment. The Council's Environmental Health Manager assumes that no prescribed exceedances are defined nor considered to be acceptable in this instance.
- 8.13 The applicant accepts that that where peak noise takes place on a regular basis (i.e. an airport) and is considered to be a typical characteristic of an area, it is relevant to consider the impact of short term peak noise. However, they content that peak noise from night-time deliveries at the coachworks are not applicable given their 'sporadic' nature. They suggest that the WHO 2009 guidelines specifically accommodates for up to 10-15 exceedances per night to still avoid sleep disturbance, so a blanket ban on exceedance is not required/appropriate. They assert that a 'large portion' of the site would be undevelopable if this was required to be met and the corresponding area is identified within an indicative sketch (nominated Figure 5.3). The applicant also states that this exclusion area includes a series of existing properties on Roswell Road and around Dalhousie Chesters – stating that there have been no noise-related complaints from residents associated with noise from the coachworks. They therefore request that any condition requiring compliance with the WHO 2009 guidelines not be included on any grant of planning permission.

Noise Conclusions:

- 8.14 With respect to commercial noise, the Council's Environmental Health Manager rebuts the applicant's position and outlines that they do not agree with the applicant's stance on BS4142:2014. They outline that BS4142:2014 is an entirely appropriate methodology to assess noise from commercial uses and they require adherence with this standard. They reassert that even with an identified 'slight adverse' impact using the TAN assessment framework would not be acceptable, notwithstanding that they do not agree that this methodology should be applied in isolation. Irrespective of either position, the NIA outlines that potential 'slight adverse' impacts is equivalent to a noise level where complaints would start to be

generated by members of the public. On balance, it is considered that this is an appropriate and robust assessment methodology to assess noise from commercial uses and residential development will be required to avoid areas that cannot comply with this requirement (i.e. background noise + 5dB). Figure 5.1 within the NIA provides an indicative buffer showing the potential impact that this could have on the site's future development and is considered acceptable in this instance.

- 8.15 The nature and definition of any 'exceedances' is critical to consider their appropriateness or otherwise. Specifically, concerns relate to the multitude of potential crash vehicle deliveries to the coachworks, which from the surveys did not appear to be as sporadic as initially thought. Secondly, that the significance of such exceedances above the maximum peak noise threshold is extremely large (i.e. up to c90dB which is well above the 42dB maximum). Also, there were a variety of sources associated with any deliveries unlike a constant and gradual change in any traffic noise exceedances. Thirdly, the large time period associated with such deliveries (i.e. typically 15-20 minutes with varying noise exceedances continually above the maximum threshold based on the survey data). It is considered that these are unlikely to be classed as acceptable exceedances under the WHO 2009 guidance and would result in unacceptable sleep disturbance to potential residential occupiers.
- 8.16 Moreover, with the 'agent of change' principles recently being enacted into legislation, existing commercial uses are afforded a level of protection from new sensitive uses. Existing noise generating uses should not be prevented from operating nor should they be subject to additional mitigation costs when new noise-sensitive use are introduced nearby.
- 8.17 On the quantum of land required to be excluded from residential development to accord with the WHO 2009 guidelines, it is noted that its implementation would have an impact on future development layouts within the site. However, this is considered to be a modest area with respect to the overall site. Given that this application is for PPIIP, without any detailed layout, the definitive number of likely units within this area cannot be confirmed. Based on the illustrative layout and phasing plan, it is still extremely difficult to estimate a figure, but could perhaps be in the region of 150-200 units depending on whether any proposed flatted blocks are also included.

- 8.18 This quantum is within the tolerance of the proposed uplift sought by the applicant above the site's indicative capacity in the MLDP. Specifically, a maximum of 1,032 dwellings are proposed - which equates to c.282 dwellings more than the 750 unit indicative capacity within the site (i.e. 375 units in the allocated area and 375 units within the safeguarded area). Additionally, of the 375 units within the allocated site, approximately 68 dwellings could come forward on the Crown Estate land, which is also within the housing allocation. Based on the above, the original uplift anticipated within the site plus the capacity of the Crown Estate land amounts to approximately 350 additional units. The potential exclusions, whilst indicative, are anticipated to be less than this figure. Moreover, a large proportion of the land is located within the south western corner of the site within the safeguarded area; within a residential area adjacent to the proposed school (recommended to be removed for place making and urban design purposes); and other parts of the safeguarded site where some of the additional uplift is likely to be lost. The key area to be lost within the allocated site relates to land between the NCR 196 and Little Wood, to the north of the existing farm track bisecting the site. Considering this issues, it is also noted that there will be an opportunity for the applicant to redesign any indicative layout based on the above buffer to consider whether residential development, and perhaps varying house types/densities etc. would be acceptable within the remaining parts of the site, subject to consideration of any detailed layout considered in an future MSC applications.
- 8.19 On balance, it is acceptable in this instance to exclude residential development from this area and include a condition requiring compliance with the WHO 2009 guidelines on sleep disturbance.
- 8.20 In relation to average noise levels within external private gardens, the Council's requirement of 50db would not be achieved for selected development blocks adjacent to the B3692 on the masterplan. Whilst this only shows an indicative location for potential development parcels, it is clear that if residential properties were gabled to the road or included south west facing rear gardens, exceedances beyond the 50db would occur. This may stem from the reduction in the proposed acoustic bunds from 30m (required by the MLDP to 25m as proposed. The applicant asserts that a higher level of 55dB should be applied (and requests that a condition be included to reflect this higher value). They assert that this has been acceptable within 'noisier' areas including a site in Midlothian at Newton Farm. However, this site is adjacent to the Edinburgh City Bypass and not a B-class distributor road. As such, it is not considered to be within the same context and it is not considered to be a 'noisy' environment to which higher maximum threshold would be applicable. As such, a condition should be included on any issued permission demonstrating compliance with the Council's external amenity standard to show mitigation - in the form of design,

building re-orientation and/or other mitigation measures to achieve this outcome. This will result in minor amendments to the masterplan to achieve this outcome but following review of Figure 4.3 in the NIA, this is not considered to be unduly excessive.

- 8.21 The applicant also outlines that for the selected properties where a slight adverse significance has been identified, additional acoustic treatments to the building fabric would be considered including acoustic glazing, alternative ventilation to support closed windows (e.g. trickle vents or MVHR) and acoustic insulation if required. This should be secured via a condition on any grant of planning permission to assist in reducing potential internal noise levels noting that it would not fully address fundamental consideration of internal noise standards which require an 'open window' assessment but it would assist more generally in contributing towards suitable attenuation for internal noise levels within habitable rooms.
- 8.22 Finally, the detailed design of the proposed school and at least one external teaching area will also be required to meet maximum noise levels by demonstrating compliance with Building Bulletin 93: Acoustic Design of Schools. This can be secured by a condition on a grant of planning permission.

Traffic & Transport:

- 8.23 The transport assessment outlines that the site is well-located to deliver sustainability objectives encouraging non-car based travel. It also predicts that some road junctions would continue to operate satisfactorily within a 'post-development' scenario. However, it suggests improvements would be required at two key road junctions to mitigate the effects of the additional traffic from the proposed development. This includes financial contributions/improvements to the A7 and B6392 junction and the B6392 and B704 junction - to sufficiently offset the impact of traffic associated with the proposed development and to provide capacity to accommodate traffic demand from nearby approved/committed developments. Delivery of such improvements would be required via a condition on a grant of planning permission.
- 8.24 Prior to implementation of such improvements, the EIA Report outlines that the proposed development has the potential to affect issues of severance, pedestrian delay and amenity, pedestrian fear and intimidation, driver delay and accidents. However, this is found to be low for isolated receptors primarily along parts of the A7 and the northern parts of the A6094. Following the improvements outlined above, the residual effect on the surrounding road network from traffic generated by the proposed development during operation would be negligible. This approach is complemented by improvements to the existing pedestrian and cycle networks and the formation of new

interconnecting multi-user access links in addition to extended bus routes through the site. This, cumulatively, would result in increased opportunities for sustainable (non-car based) travel for future residents. Finally, the cumulative effect of traffic generation on the surrounding road network when traffic associated with approved/committed developments is included would still be negligible.

- 8.25 During construction, there would be a considerable increase in trip generation, including HGVs (around 20 movements per day) and light vehicles associated with construction staff (around 120 movements per day). The consequential impact on the road network during construction is assessed within the EIA Report, which identifies potential impacts as negligible. To achieve this, 'good practice' measures will be required including the preparation and implementation of a Construction traffic Management Plan (CTMP), which will include routeing restrictions for construction traffic to avoid Bonnyrigg town centre and to preserve residential amenity. Details of these measures can be secured by a condition on a grant of planning permission.

Air Quality:

- 8.26 Any potential detrimental impacts relating to air quality largely stem from the proposed increase traffic generation - which could increase by over 5,000 vehicle trips per day. Consideration of these impacts has been undertaken within the EIA Report, which utilises a conservative model to predict particle generation and climatic conditions, both of which were found to be pessimistic. Consequently, the EIA Report outlines that potential pollutants relating to Nitrogen Oxide (NO₂) exposure and particulate exposure (PM₁₀ and PM_{2.5}) would be low, resulting in slight adverse impacts or less to all key receptors. This position has not been challenged by the Council's Environmental Health Manager. Accordingly, it is considered that there would be no unacceptable air quality impacts associated with the proposed development subject to implementation of the mitigation measures identified within the Mitigation Schedule.

Geology and Soils:

- 8.27 The EIA report outlines that there are no features of special geological interest within the site. The application is also accompanied by a Coal Mining Risk Assessment (CMRA) and Phase 1 Geo-Environmental & Geo-technical Report, which provides a comprehensive review of the existing site conditions to identify potential geological constraints. Of critical importance is potential ground instability. Specifically, risks associated with previous shallow mining, particularly within the north western corner of the site. The above CMRA considers this issue in detail and provides a series of approaches to mitigate risk. In this regard, the Coal Authority does not object to the application and outlines that the CMRA '*makes appropriate recommendations for the carrying*

out of intrusive site investigations... to inform an appropriate remediation strategy to address the risks posed by coal mining legacy across the site'. The Coal Authority require various matters to be addressed to minimise risk associated with mining activity including provision of: (1) A scheme of intrusive investigations for each phase/detailed layout; (2) A layout plan showing mine entries and no-build zones; (3) A scheme of remedial treatment works; and (4) Implementation of approved remedial treatments. Accordingly, these requirements can be secured by conditions on any grant of planning permission.

- 8.28 The EIA Report also considers potential contamination within the soil. Whilst the applicant anticipates this to be minimal (relating to localised previous industrial uses, made ground and alluvium) they commit to further ground investigations for subsequent phases and provision of a remediation strategy to confirm how mitigation measures would be implemented to avoid future risks to human health. The Council's Environmental Health Manager does not object to this approach and a series of conditions can be included on any grant of planning permission to address this issue.
- 8.29 In addition, to avoid potential contamination into the existing soils, the applicant proposes the implementation of a series of strategies and best practices that would accord with the relevant regulatory regimes (and SEPA's Pollution Prevention Control Guidance) - to ensure suitable regulation of on-site construction activities that minimise potential environmental impacts. Implementation of the above approaches, and the relevant planning related measures contained within the Mitigation Schedule, would ensure compliance with MLDP Policy ENV 24 and ENV 25.

Hydrology and Hydrogeology:

- 8.30 The EIA report outlines that there would not be any significant adverse impacts in relation to hydrology and hydrogeology during the construction or operational phases. Suitable provision of mitigation measures relating to the implementation of SEPA Pollution Prevention Guidance and Best Practice approaches, buffer strips and the protection of existing infrastructure will be required. In addition, the EIA Report outlines that surface water discharges will be required to be limited to greenfield runoff rates and treated in line with the regulatory requirements to ensure that there will be no cumulative impact on surface water bodies. This approach is proposed and will be required to be demonstrated for all future phases via a condition on any grant of planning permission. The EIA Report then outlines that the provision of SUDS infrastructure within the site should have a cumulative positive impact on flooding - whereby SUDS features would provide sufficient storage to retaining water associated with potential flood events, to then

allow for the staged-discharge to the water environment at a controlled rate and along designed flow paths.

- 8.31 With respect to flooding, the accompanying FRA outlines that, whilst parts of the site are subject to potential high risk of surface water flooding, primarily along the route of the Pittendriech Burn, this is almost exclusively contained within the Little Wood Valley. Accordingly, it suggests that a detailed design of the proposed culvert at this location (where a vehicular crossing through Little Wood is proposed) is required to demonstrate suitable capacity to facilitate safe, flood free, road access/egress.
- 8.32 SEPA have not objected to the proposed development on flood risk grounds subject to receipt of further details relating to any future layout; SUDS infrastructure; and, that there is no building over an existing culverted watercourse in the southern boundary. Following the design requirements outlined within the FRA, Drainage Assessment and EIA Schedule of Mitigation and subject to addressing the above conditional requirements outlined by SEPA, it is considered that there would be no unacceptable risk to flooding.
- 8.33 Suitable surface water treatment levels and attenuation can be provided within the site subject to providing a detailed scheme in accordance SEPA and the Council's Flooding Officer's recommendations and by addressing Scottish Water and CIRIA guidance. This includes a request to provide SUDS ponds to include biodiversity enhancements rather than solely underground SUDS basins. Implementation of a detailed design using the above approach would enable the suitable control of surface water movements and controlled discharge at greenfield 'pre-development' runoff rates. Subject to provision of a series of conditions covering the detailed design of the above surface water management infrastructure and the aforementioned mitigation measures within the FRA, Drainage Assessment and EIA Schedule of Mitigation, the above approach would accord with the corresponding objectives with MLDP policy ENV 9 and ENV10.

Archaeology & Cultural Heritage:

- 8.34 The EIA Report outlines eight potential sites of heritage interest within the site, however none are designated. In this instance, the proposed development could result in potential impacts to existing cultural heritage remains relating to a former sub-surface remains (rig and furrow cultivation asset). However, this is not considered to prevent future development of the site and a suitable condition has been sought by the Council's Archaeological Advisor requiring respective trial pits and intrusive investigation with subsequent monitoring prior to future development. It is also outlined within the EIA Report that there would not be any significant indirect impacts on nearby heritage assets, notwithstanding that there would be a minor adverse impact on a

Category C-Listed Building (Chesters Hotel). These results demonstrate that the proposed development would not result in any unacceptable impact in terms of cultural heritage nor archaeology and would comply with MLDP Policy ENV 24 subject to inclusion of the above condition and the implementation of measures within the EIA Schedule of Mitigation.

Landscape and Visual Impact:

- 8.35 A Landscape and Visual Impact Assessment (LVIA) has been prepared by the applicant to consider the effects on existing landscape features and the potential visual amenity impacts associated with the proposed development. Considering potential adverse impacts on the existing landscape elements, the LVIA outlines that there are no long term significant physical effects on the existing landscape features within the site. It acknowledges that selected trees and partial hedgerows are indicatively proposed to be removed to facilitate development outlined within the masterplan but that the majority of the existing trees and features would be retained and incorporated into the future design. This includes Little Wood, which is proposed to be retained excluding isolated tree removal to facilitate the modest widening of the existing road, a multi-user footpath and a bridleway. (Please refer to Arboricultural section below for further commentary on this issue). Moreover, substantial additional planting is proposed within the landscape framework, which seeks to offset any potential loss.
- 8.36 The LVIA outlines that there would be localised significant impacts on the Lowland Hills and Ridges within the site boundary. This is understandable given the magnitude of change from an agricultural field to housing development. However, the LVIA states that despite any loss, the rural agricultural character, which these fields contribute to is not substantial when considered in the wider context of agricultural land within the surrounding landscape. Specifically, that this land is partly characterised by the existing, expanding settlement edge of Bonnyrigg, and any future development would not represent an entirely unfamiliar character change when considering the extensive areas of agricultural, rural and settlement edge. In this regard, the LVIA outlines that when the wider extent of local landscape character areas or landscape designations is considered, these areas would not be significantly adversely affected by the proposed development. Accordingly, it is considered that, on balance, the proposed development would not result in unacceptable impacts to landscape character.
- 8.37 In terms of visual impact, the LVIA outlines that three viewpoints and one visual receptor would be subject to significant adverse impacts even once mitigation planting is implemented. This includes Viewpoint 4 (Tyne Esk Trail/B6392), Viewpoint 7 (Edge of Little Wood), Viewpoint 9 (Laswade RFC/A6094) and views from Dalhousie Steadings.

- 8.38 The applicant asserts that any impacts at Viewpoint 9 relate solely to views from the Rugby Club and isolated residential properties that currently have unobstructed views over the site. The LVIA outlines that other receptors from this viewpoint would not have any significant adverse effects. The same principle is set for the views from Viewpoint 7 and from the Dalhousie Steading Receptor - where there are direct views into and over the site. This naturally results in significant visual impact given that their current unhindered view of agricultural fields would be replaced with residential development, compounded by their proximity to the site boundary and the setback to any proposed development. This position is acknowledged and a level of change of this nature has been anticipated by the Council - and fully considered as a potential outcome through the site's allocation for residential development within the MLDP (and to a lesser extent a future intrusion into the existing landscape and visual context by safeguarding the site for potential future residential development). In such instances, compliance with the Council's design and amenity standards would be required to ensure suitable separation to protect residential amenity for existing residents. The masterplan includes suitable separation to existing residential properties – albeit confirmation that such requirement can be achieved would be required via approval of any subsequent detailed design. This would ensure that adequate visual and residential amenity would be preserved from such locations. Moreover, substantial additional planting is proposed between existing and proposed residential properties that would assist in softening any future outlook.
- 8.39 With respect to view Viewpoint 4, the applicant contends that any significant adverse impacts would change if the Crown Estate land was developed - as this would facilitate the provision of an additional tree-lined landscape bund that would reduce the visual effect to 'not significant' after 10 years. To ensure that these adverse impacts are reduced from 'significant adverse' to 'not significant', a landscape buffer similar to the type anticipated along the boundary of the Crown Estate land will be required along the south eastern corner of the site as there is no guarantee of the expedient development of the Crown Estate land (and the corresponding landscape buffer required to reduce the significance of any landscape impact from this viewpoint). This can be achieved by a condition a grant of planning permission and the masterplan can be updated accordingly (and the requirement removed, should development of the Crown Estate land to the south-east of the site be approved with a suitable landscaping buffer around its southern boundary that achieved the ambitions and screening qualities sought by the LVIA.
- 8.40 Overall, it is considered that the proposed development would not result in unacceptable visual impacts to the surrounding area subject to addressing the conditional requirements outlined above. Further consideration of landscape and visual impacts would also be required to

be undertaken for any subsequent phases (via updated LVIAs) once the corresponding detailed design has been confirmed to demonstrate compliance with the original LVIA objectives.

Arboriculture

- 8.41 The applicant has outlined that the masterplan has been designed to maximise tree and woodland retention within the site. This includes the retention of Little Wood (except for the provision of three crossing points - one for a vehicular crossing using the existing crossing within the middle of the site and two multi-user paths). It is noted that there would be a minor adverse impact on Little Wood (plantation woodland) with potential intrusion into this feature by the above crossings. However, this is proposed to be mitigated by enhancing the majority of the woodland strip and additional woodland planting within the site.
- 8.42 To this extent, the applicant has provided a Tree Survey and Arboricultural Implications Assessment, which provides indicative details outlining how the proposed Little Wood road vehicular crossing could be designed to minimise potential impacts to existing trees/woodland/ecological habitats. This suggests that the impacts would be related to the potential loss of one Ash tree and to adjacent scrub woodland. An indicative drawing has been provided to show illustrative details outlining how the proposed arrangement could be constructed. This includes sufficient provision for a road carriageway, footpath, embankments (on both sides), tree protection, working areas, utilities/services and a mammal crossing. Initially, it outlines that there would not be any significant adverse impacts on the existing woodland/habitats (albeit isolated tree removal is identified). In order to confirm the precise nature of such works, the detailed engineering design for this crossing (and the multi-user paths through the woodland) will be required to be provided via a condition.
- 8.43 Updated Arboricultural documentation to cover any future detailed layout including a Tree Survey and Arboricultural Implications Assessment is required to show corresponding tree, woodland and hedgerow retention and protection plans and construction exclusion zones. Of particular attention will be the road (north) and multi-user paths through Little Wood. Dwelling standoff distances are also required to be shown measuring 20m from the corresponding boundary fence to Little Wood and 10m-15m from individual (retained) trees to the foot/cycleway. A woodland management plan will also be required to facilitate the sustainable management of existing woodland within the site.
- 8.44 It is recommended that the delivery of the structural elements of the landscape strategy - such as the Little Wood offset, woodland and hedgerow planting to the site boundaries and also the core path realignment and key connections - are delivered as early as possible

within the context of the wider development (and as recommended by the ecological chapter of the EIA) to minimise construction phase impacts on habitats and protected species but also allowing for the early establishment of planting that will serve to screen views into the development. These would be required to be identified within an updated phasing plan, which identifies their strategic implementation across the site and before or at the start of any corresponding development phase. All the above requirements can be addressed via conditions on a grant of planning permission.

Ecology

- 8.45 The EIA Report (Chapter 6 - Ecology) provides a comprehensive review of ecological matters to consider the likely environmental impacts in relation to ecology and nature conservation. This includes:(1) Ecological Assessments (2017, 2018 and 2020); (2) Protected Species Surveys including the following updated surveys in 2020 (a) Otter Survey; (b) Bat Roost Potential Survey (c) Bat Activity Surveys; (d) Badger Survey; (e) Water Vole Survey; (f) Breeding bird survey; (g) Wintering bird survey; (h) Squirrel survey.
- 8.46 The above outlines that overall, whilst the site is large and contributes to the biodiversity within the local area, it is not significantly diverse in habitats or species - with the most valuable assets being Little Wood, the Local Biodiversity Site and existing hedgerows/scrub. These existing linear landscape features create a well-established biodiversity corridor/network that connects to other biodiversity assets. In short, the EIA Report outlines that there would be 'significant' effects on existing habitats, initially, but that this would be reduced to 'not significant' or even slight beneficial once mitigation is introduced by either retention or creation/enhancement of existing habitats.
- 8.47 The proposed development would alter existing movement/foraging habitats for various species (including bats and birds) within the site with significant adverse impacts initially, particularly during construction, but reduced to not significant or even positive once mitigated (i.e. habitat creation and lighting controls etc) during operation. A series of mitigation measures are proposed to reduce the significance of potential impacts and enhance the ecological offer, which would be implemented sustainably via the approval of a Landscape & Habitat Management Plan. Considering potential impacts on existing landscape assets, there would be direct negative impacts on the Bonnyrigg to Rosewell Dismantled Railway Local Biodiversity Site. Despite three 'cuts' through this area to facilitate a road and two multi-user paths, tree removal would be minimal and focused solely on the crossing(s) required - which would result in no significant adverse effects once corridor enhancement and any replanting is proposed.

- 8.48 Overall, the above ecological impact is considered to be acceptable subject to the provision of various ecological enhancements outlined within the EIA Schedule of Mitigation.

9 PLANNING ISSUES

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

Principle of Development

- 9.2 The site is split into two distinct areas in planning policy terms. The northern half of the site, including a strip of land within its western corner is allocated for housing (Site Hs12) under MLDP policy STRAT3 - Strategic Housing Land Allocation where housing development is supported to meet strategic housing land requirements within Midlothian. Likewise, the provision of complementary uses including a primary school to accommodate education demand from any future residential development is supported. This allocated parcel of land is located within the built up area of Bonnyrigg where there is also presumption in favour of appropriate residential development.
- 9.3 The southern part of the site is not allocated for housing in the MLDP. It is safeguarded for potential longer term housing in the next iteration of the MLDP should it be required (and considered to be acceptable in place making terms). Accordingly, it is still allocated as land within the countryside in the MLDP.
- 9.4 There are a series of tests required to be met within MLDP policy RD1 to justify future uses within the countryside. Generally, this requires uses to be compatible with the essential characteristics of the countryside (i.e. agriculture, farm diversification horticulture, forestry or countryside tourism etc). None of which can be met in this instance. Moreover, there are a various requirements for housing proposals in the countryside, almost exclusively related to small-scale housing development. The crux of these requirements set out extremely restrictive approaches that prevent housing unless a series of requirements are met - including relationships to the furtherance of a countryside activity and where any housing need cannot be met within an existing settlement. Despite the above, the provision of roads, access and drainage infrastructure within or over the safeguarded land to facilitate development plots within the allocated site and to allow for suitable means of access etc from the south is considered to be acceptable in principle subject to detailed design matters being confirmed. Provision of such road infrastructure would also avoid the construction traffic impacts outlined above.

- 9.5 Therefore, with respect to the future development the southern part of the site within the countryside, detailed consideration has been undertaken to ascertain whether there are material considerations that could justify issuing a decision departing from the corresponding countryside MLDP policy objectives. This assessment has been undertaken within the material consideration section below - which outlines that there are a series of material consideration that warrant a decision being made in favour of support for residential development within this part of the site.
- 9.6 An indicative phasing plan has been prepared which outlines the site's future development within 7 phases from 2021 to 2032. It suggests that within the lifetime of the adopted MLDP, the majority of the early phases (i.e. Phases 1-3) would be located within the allocated part of the site. The indicative unit numbers per phase, whilst indicative, show approximately 400 units within the allocated site to 2027 against approximately 100 units within Phase 2 (and a small part of Phase 1 on the northern side of the primary access road). Whilst the timescales and scope for the new MLDP are still not certain, it is not until Phase 4 in 2027 where larger parts of the safeguarded land are proposed to be developed, when a new MLDP would likely be in place and the land potentially allocated (albeit this cannot be confirmed). Critically, the quantum of housing units shown appears to exceed the maximum site capacity identified within the EIA. Therefore, updated phasing details will be required, which will align with any timings for transportation infrastructure, as applicable.
- 9.7 The indicative number of residential units allocated for site Hs12 in the MLDP is 375 units. Moreover, the indicative quantum of units for the safeguarded housing site is also 375 units - a total of 750 units. The indicative quantum of units within the site (allocated and safeguarded) would be approximately 1,000 units (up to 1,032 units). Given the above, a comprehensive masterplan has been prepared. This takes cognisance of various design parameters to establish a clear design framework that would create a strong sense of place. As such, it is considered that the proposed quantum of units is acceptable in this instance, subject to the layout, form and design of the proposed development being acceptable and the impact of the development on infrastructure, including education provision, being appropriately mitigated.
- 9.8 The south western part of the site is identified as prime agricultural land, but given its safeguarding for housing, its loss is acceptable. The longer-term spatial strategy for this area considers future development benefits outweigh any potential benefit from its retention as prime agricultural land.

Housing Land

- 9.9 Specific requirements within SPP and the development plan make provisions for Councils to maintain a five-year effective supply of housing land at all times. The MLDP then sets out a number of actions that could be taken to address any shortfall; one of which is to support the early development of land identified in the MLDP for longer-term growth (safeguarded sites) or other sites not allocated for housing. Such sites need to be able to satisfactorily demonstrate that the proposal can/will contribute to the five-year effective housing land supply by having a reasonable prospect of being built within this 5 year period. The mechanism for identifying whether the housing land supply remains effective is the Council's MLDP Action Programme, which is reviewed every 2 years, and identifies the 'trigger' for introducing actions which may alleviate any shortfall in the land supply. A Housing Land Audit (HLA) is prepared by the Council every year, in consultation with Homes for Scotland (the umbrella organisation that represents the house building industry) and the major house builders directly, to consider the effectiveness of housing land supply at yearly intervals.
- 9.10 It is considered that there is not any shortfall in the five year effective housing land supply using any of the potential assessment methodologies. Therefore, any potential route to develop sites within the countryside, green belt or on sites safeguarded for housing to address a shortfall in the five year effective housing land supply is not applicable nor required within Midlothian.
- 9.11 Assessing the effective five year housing land supply within local authorities has been uncertain and under review in recent months/years since SESPlan1 and its accompanying Housing Land Supplementary Guidance become 'out-of-date'. This has been compounded by the rejection of SESPlan2 in 2019. The complexities in defining the 5 year effective housing land supply became apparent as Scottish Government Reporters have been required to individually interpret competing housing land data/methodological assessments to define which documentation to use and how much weight to apply for decision-making via recent planning appeals. Approaches by Reporters within recent planning appeals have been varied. One of the key outcomes is that Reporters have accepted that:
- i) SPP Para 33 - engages a presumption in favour of sustainable development is now a 'significant' material consideration;
 - ii) Adverse impacts - must 'significantly and demonstrably outweigh' any benefits when assessed against the wider policies in this SPP and the development plan.
 - iii) Tilted Balance - decision makers will consider whether a tilted-balance applies in favour of support, then, how much weight to apply to corresponding material considerations.

- 9.12 In relation to the above matters, decision makers have utilised two key assessment methodologies to calculate the five year effective housing land supply. Firstly, using the SESPlan1 housing land data - which underpins the Council's MLDP housing land calculations and historic Housing Land Audits to date. Alternatively, using SESPlan2's Housing Needs and Demand Assessment (HNDA2), which utilises more recent datasets and population growth projections within the (now rejected) SESPlan2.
- 9.13 The calculation, for either methodology, consider the 5 year housing land supply (from the Council's latest HLA) against the corresponding housing supply target. In this instance, utilising either dataset averaged over 5 years, plus a generosity figure to create a target, against the latest housing land supply position. This principle has already been accepted by Scottish Government Reporters for the production of the MLDP and it is an effective housing land supply methodology that has been continually advocated by the Council and other local planning authorities on this issue. Using this approach, irrespective of which housing land supply assessment data/methodology is applied, the planning authority considers that the Council does not have a shortfall in the five year effective housing land supply. Rather, by applying either dataset, the Council has a surplus in its effective housing land supply - with at least 6.2+ years, using either assessment methodology. Accordingly, with no shortfall using either assessment methodology there is no justification to warrant the release of countryside land or green belt land for housing within Midlothian in housing land terms.
- 9.14 As SESPlan1 (and the accompanying housing land data) are now out of data, the planning authority do not consider it to be appropriate to use SESPlan1 data on its own to consider the adequacy of the five year housing land supply calculation. The Council's assessment of the five year effective housing land supply is predicated on the data within SESPlan2's HNDA2. Considering even the largest population growth projection within the HNDA2, it is clear that there is a generous surplus in the effective housing land supply within Midlothian - with approximately 10 years effective housing land supply in Midlothian. When a generosity figure of 20% is applied, the calculation identifies a surplus of over 9 years for the effective housing land requirement. As such, there is no shortfall in the five year effective housing land supply within Midlothian using either assessment methodology. Further details on the corresponding calculations is provided within the Council's HLS 2021. This calculation applies the same assessment methodology as the approach that underpinned the MLDP and HLA assessments – whereby the 5 year housing land supply (from the Council's latest HLA) is set against the corresponding housing supply target. In this instance, utilising the SESPlan2 HNDA housing data averaged over 5 years, plus a generosity figure, create a target, against the latest housing land supply position within the HLA 2021. This principle has already been accepted by Scottish Government Reporters for the production of the

MLDP and it is an effective housing land supply methodology that has been continually advocated by the Council and other local planning authorities on this issue. The sole change, in this instance, is the utilisation of the primary dataset for the corresponding the assessment. The planning authority has considered this matter carefully to ensure that the assessment is based on the most recent and appropriate context. Accordingly, HNDA 2 represents the most 'robust and credible' data source (i.e. projections and timescales) to assess housing need and demand within Midlothian. The HNDA 2 is a material consideration in decision making and significant weight should therefore be apportioned to this document/data given the above 'robust and credible' status. Some weight should also be given the SESPlan2 housing position statement, which sets out an agreed position for SESPlan authorities that advocates the use of this data in any future assessments. Finally, reasonable weight should also be placed on the HLA as this represents the most recent snapshot of housing land supply within Midlothian and assists in gauging an accurate housing land supply position from which to base the assessment.

- 9.15 Despite this the out of date nature of SESPlan1, Scottish Government Reporters have been taking a view that the intent of the SESPlan1 policies should not necessarily be disregarded as they still form part of the development plan (albeit they are out-of-date). The planning authority consider that some weight can be applied to this approach, for example policies requiring a five year effective housing land supply at all times or suggesting that planning authorities consider non-allocated housing sites should there be a shortfall in the effective housing land could be considered, noting that the latter is not relevant in this instance.
- 9.16 In this instance, as no shortfall in the five year effective housing land supply can be established within Midlothian - the tilted balance in favour of support should not be applied in this instance.

Indicative Layout, Form and Density

- 9.17 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 (MSC)) 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 – which will dictate the number of residential units;
 - proposed materials to be used in the construction of the dwellinghouses, ground surfaces and ancillary structures – including those to be used in the area of improved quality;
 - details of landscaping and boundary treatments;
 - provision of open space and play areas/facilities;

- percent for art;
 - sustainable urban drainage systems (SUDS);
 - details of road, access and transportation infrastructure;
 - sustainability and biodiversity details;
 - archaeology mitigation details;
 - the provision of broadband infrastructure; and
 - ground conditions/mitigation of coal mining legacy.
- 9.18 The submitted masterplan (Development Framework) sets out an indicative framework for the site and outlines spatial parameters that would influence the form of any future development. The overarching vision for the future development of the site seeks to create development that has a strong identity and maximises opportunities relating to the site's existing features - to create an responsive urban form with a 'sense of place' that is accessible. Initially, five character areas have been provisionally identified each with their own distinct purpose and form.
- 9.19 The masterplan splits the site into an a patchwork of development blocks with corresponding open space, drainage, landscape roads and pedestrian infrastructure - created by responding to existing site features/characteristics including existing residential properties, woodland, proposed access points and the interconnectivity to adjacent open spaces/areas/roads. Overall, the design features within the masterplan are supported, as the overarching design principles should create a successful, coordinated design approach for the future development of the site. Some minor amendments to the masterplan (outlined below) are required to address selected technical requirements but this does not diminish the integrity of the positive and overarching design strategy for the site's future development.
- 9.20 The masterplan comprises a varied suburban street pattern with a design code showing houses/flatted blocks fronting onto roads interspersed with open/green space. A consistent indicative density is proposed for the majority of the site, excluding areas of higher indicative density (up to four storey flatted blocks) within the centre of the site. The principle of this indicative density could be acceptable but will be subject to further assessment.
- 9.21 Generally, an appropriate landscape framework has also been prepared to create a series of successful landscaped and woodland areas based on retention/enhancement of existing landscape features. This includes the provision of extensive green networks through the centre of the site following Little Wood and the northern and southern site boundaries in addition to tree lined primary streets to create improved levels of amenity. Structure planting along the southern and north western boundaries creates a successful landscaped edge enhancing the overall landscape framework.

- 9.22 The proposed access and movement hierarchy is acceptable as it would allow for a safe, legible, ordered approach to accessibility that reflects the role and function of adjacent areas and creates a harmony between the creation of place and requirements to facilitate movement. The road hierarchy prioritises movements within the primary spine road with secondary and tertiary streets facilitating movement in accordance with Designing Streets principles complemented by extensive pedestrian and multi-uses/Core Path enhancement for the benefit of future residents.
- 9.23 Locations for Areas of Improved Quality (AIQ) are provided along the primary open space area within the north east of the site and to the south of Dalhousie Chesters Court. This is an acceptable approach. However, the identification of an AIQ for the proposed community facility is not supported as AIQ are specifically required to be related to housing development. As such, additional AIQ locations will be required to ensure that that 20% of all proposed dwellings fall within this category.
- 9.24 Recommended minor amendments to the proposed masterplan to address technical matters are outlined below and can be secured by condition:
- Acoustics - Removal of residential blocks to address conditional requirements to mitigate unacceptable noise impacts.
 - Open space - Provision of a small civic space or kick about areas within the residential areas in the south eastern corner of the site and widening of open spaces adjacent to Little Wood and along the cycle paths to create small pockets/openings of informal open space to accommodate natural play.
 - Residential/School Interface - Removal of the residential development block directly adjacent to the proposed school to allow for an appropriate urban design outcome that provides sufficient connectivity to/from the school from the south west and east.
 - Planting - Given the uncertainty on the future development of the Crown Estate land, a temporary seeded bund will be required - to continue the proposed 'Structural Open Space' along the south eastern corner of the site until it reaches the proposed open space/SUDS basin. This feature would not be required (when considering the corresponding MSC application for the proposed development of the site's south eastern corner) if the 25m landscape buffer is continued along the southern edge of the Crown Estate land.

Access and Transportation Issues

- 9.25 Four primary access routes connect the site to the local road network. This includes vehicular access points to Rosewell Road (A6094) to the west, the Bonnyrigg Distributor Road (B6392) to the south and two accesses to the existing Hopefield estate at Bannockrigg Road and Castell Maynes Crescent. The proposed access arrangements above - whilst indicative, would allow for legible, safe and efficient vehicular

manoeuvrability to/from and within the site. Furthermore, the Council's Policy and Road Safety Manager has raised no objection subject to receipt of detailed design for corresponding access and roads arrangements, proposed roundabouts, bus service/infrastructure requirements and offsite improvements to the local road network.

- 9.26 The Council's Policy and Road Safety Manager also requested that the existing informal pedestrian/equestrian crossing of the B6392 should be upgraded to a traffic signal controlled crossing because of the anticipated increase in traffic volumes. The applicant disputes the need for this crossing.
- 9.27 The 3m wide National Cycle Route (NCN 196), which runs through the site, should also be widened to 4m to accommodate the additional pedestrian, cycling and equestrian usage the development will produce. The applicant disputes this requirement.
- 9.28 The site is considered to be located within a sustainable location that would encourage sustainable transport choices, including movements by bus – the site will be serviced by a bus service (which already services the neighbouring Hopefield1 site). Bonnyrigg town centre is located approximately 1.2km from the site, which provides a range of local services, including retail, commercial and community uses. Provision of detailed road designs, visibility splays and pedestrian accessibility details/routes will also be required to accompany MSC applications for any future detailed design.

Core Path and Pedestrian Accessibility

- 9.29 The site is bisected by the National Cycle Network (NCN 196) and Core Path 6-42 which runs north south within the western part of the site. An existing bridleway running through the centre of the site is also proposed to be realigned along the southern site boundary before connecting to Rosewell Road. Retention and enhancements to the setting of the Core Path and NCN 196 within an adjacent landscaped corridor is acceptable and would be complemented by a recommendation to include additional pockets of informal open space along Core Path routes. The same enhancement is recommended for the realigned bridleway, which would be subject to detailed design matters via any future MSC application. Pedestrian routes are also proposed from the site to the north east at Cockpen Avenue, to the north east of Little Wood, to the existing playing fields and to the employment land allocations. This would facilitate multi-user paths to the immediate area and would allow for safe pedestrian movements to/from the site. In addition, a 'Safe Route to School' will be provided to/from the proposed school to prioritise pedestrian accessibility. Detailed design of these options would be required via a condition on any grant of planning permission.

Open Space

- 9.30 The table within Appendix 4 of the MLDP outlines open space standards that future development proposals will be required to meet in relation to quality, quantity and accessibility. An initial review of open space is required to be undertaken against this requirement to ensure that the above parameters can be met, complemented by a comprehensive review once the detailed design of the corresponding phases has been confirmed. Moreover, whilst any assessment of open space shall be reviewed against the current open space provision within Bonnyrigg, given the scale of the proposed development and the requisite demand for open space provision in its own right - a standalone review of the proposed open space within the site will be required to ensure that the quantum, form, location and function of open space areas within the site is acceptable.
- 9.31 Overall, the quality of existing open space provision within Bonnyrigg scores slightly below the qualitative score for all amenity areas and there are also other deficiencies, coupled by consequential demand from new residents that require new provision and upgrades to existing open space infrastructure to improve the existing offer and quality. The applicant has identified various open space areas within the masterplan to help address this, however, additional/amended provision will be sought by condition as outlined below.
- 9.32 Under provision of playing fields in Bonnyrigg, has in part, been addressed by the provision of additional sports pitches adjacent to the site (in Hopefield1). It is also considered, that there is sufficient informal open space in the area. There is however an under provision of equipped play areas within this part of Bonnyrigg, which will be exacerbated by demand from residents within the proposed development. This is required to be addressed via suitable infrastructure provision within any future MSC applications. The applicant has proposed equipped open space areas within various parts of the site. Following consultation with the Council's Land Resources Manager, it was suggested that the equipped play area in the north eastern primary open space area includes a large, substantial, equipped area of play - as this has been identified as a preferred solution to address this shortfall. Additional areas of natural play (including mounds, boulders, logs, stepping stones etc) will also be required within other areas of open space.
- 9.33 In terms of on-site open space provision, approximately 8 hectares of open space is provided including a generous open space area within the north eastern corner of the site to facilitate connectivity to adjacent open space/playing fields. This approach is encouraged. However, it is considered that the location of open space, and the quantum, will be required to be amended to address MLDP Appendix 4 requirements. Moreover, not all of the demarcated areas on the Development

Framework (and included within the open space calculation) are considered to be usable/functional. This includes parts of the woodland edges shown as open space in the masterplan, which will be required for planting/offsets and, for habitat protection and biodiversity enhancement. Accordingly, amended open space will be required within the site including the provision of additional village green style open spaces or kick about spaces within the south eastern residential phase(s) and smaller areas of usable open spaces along the main tree lined cycle route (with wider pockets of open space adjacent to Little Wood) to allow for resting places and pockets of localised play opportunities. In both spaces, and along the core path route, natural play opportunities should be introduced.

Feasibility of Communal Heating System

- 9.34 The applicant has provided a comprehensive District Heating Feasibility Report outlining justification to demonstrate why the site does not have the potential for a new district heating network to be created within the site. The most critical components relates to significant technical constraints given the proximity (or lack thereof) of a suitable heat network or heat producers to connect to. The nearest potential network being over 4 miles away (at Hillend). Moreover, the applicant states that other restrictions including a major road network, a river and private land could also restrict the provision of the necessary pipework. They then suggest that the complexity in preparing a centralised system with reasonably small yearly housing delivery rates from a single developer would make the delivery of such a system overly complex and oversized to meet initial energy loads, which would result in a costly, inefficient energy distribution. Given the changing situation within Midlothian and the technological advances in the form of energy provision, it could be that some of the technological constraints above could be rectified. As such, it is recommended that a further sustainability feasibility report is carried out 5 years from the first MSC application submission to re-assess the current position on whether a district heating is technically feasible and financially viable at that time. In the event that it is technically feasible and financially viable, a district heating scheme shall be installed at the site utilising appropriate ducting safeguards installed via the terms of a condition attached to any planning permission.

Developer Contributions

- 9.35 If the Council is minded to grant planning permission for the development it will be necessary for the applicant to enter into a Planning Obligation in respect of the following matters:
- A financial contribution towards additional primary education capacity;
 - A financial contribution towards additional secondary education capacity;
 - A financial contribution towards the A7 Urbanisation scheme;

- A financial contribution towards leisure/sports enhancements, prioritising Poltonhall pitches/facilities;
- A contribution towards preparing and submitting corresponding Traffic Regulation Orders to amend speed limits;
- The reservation and transfer of serviced and remediated land for the provision of a new primary school within the site;
- Marketing of land for a community/healthcare facility (Seven years from commencement of development);
- Affordable housing provision (a minimum of 25%);
- A financial contribution towards Borders Rail; and
- Maintenance of children's play areas/open space/community growing areas (including the community orchard).

9.36 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:

- necessary to make the proposed development acceptable in planning terms (paragraph 15);
- serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans;
- relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19);
- fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23); and
- be reasonable in all other respects.

9.37 The requirements as set out above for any proposed Planning Obligation would meet the above tests.

Community Growing

9.38 The applicant has identified two parcels of land within the Masterplan for community growing. One, within the northern part of the site (adjacent to the community facility) and one within the centre of the site (to the north of Dalhousie Chesters Court) for a community orchard. The MLDP settlement strategy for Site Hs12 outlines that *'the masterplan should consider the potential for including allotments or space for community growing in the allocated (or longer term safeguarded) site in recognition of the increased interest in local food growing'*. The Council's Green Networks Supplementary Guidance outlines requirements for *'community growing'* and not allotments. The applicant has submitted a briefing paper, reiterating the above policy position. The paper also suggests that to reserve land for allotments for the wider community would not relate to the proposed development nor could the Council

prioritise allotment provision for residents within the proposed development above other residents. They also assert that that any requirements to provide allotments are enacted by the Community Empowerment Act 2015 and should not be reasonably provided with the site at the applicant's expense. Instead, they suggest of a condition to secure the detailed design of the community growing areas and their subsequent implementation.

- 9.39 The Council's Land and Resources Manager objects to the above approach as they consider that removal of any allotment provision within the site would compromise their future deliverability within Midlothian, contrary to the legislation requirements of the Community Empowerment Act 2015 where there is an outstanding demand for allotments within Midlothian. They also suggest that allotment provision at this site is expressly sought by the MLDP and that the corresponding Allotment and Community Growing Report 2020 was prepared based on future provision within allocated MLDP development sites as one of the two potential delivery mechanisms.
- 9.40 Considering both positions, whilst there is a requirement for the Council to provide allotments where there is an outstanding demand, this is separate to the legislative requirements under the Planning Act that dictate what can be required via the development management process considering tests of reasonability, proportionality and relevance in scale and kind to the proposed development. It is acknowledged that the Council's allotment strategy is based on partial delivery of allotments via the future development of allocated housing sites within the MLDP. However, this is one of two options. Specific requirements within the MLDP allow for sufficient flexibility to provide either community growing or allotment provision within the site. As such, on balance, it is considered that the principle of providing two community growing areas (with no allotment provision) is acceptable in planning terms in this instance. To require requisite provision that may go beyond the remit of the Planning Act (and the corresponding Planning Circulars) could contravene the corresponding legislative requirements and would not be acceptable.
- 9.41 Despite the above, the applicant proposed timescales to submit design details for the proposed community growing areas are not acceptable and should be reduced to the submission of documentation prior to occupation of the 250th dwelling with timescales for implementation to be prior to the occupation of the 300th unit.

Community/Healthcare Facility

- 9.42 The site specific requirements for Site Hs12 require that '*Land adjacent to the school site should be reserved for potential community use, which may take the form of a health facility*'. In this regard, the masterplan identifies land to facilitate a future community/healthcare facility within the northern (allocated) part of the site. The applicant has proposed

that potential delivery of this land for a community/health facility is secured via a legal agreement - requiring marketing of this land for community purposes for a period of seven years from the signing of the legal Agreement, with the details of the marketing strategy to be approved by the Council.

- 9.43 Liaison with NHS Lothian has outlined that a future healthcare facility is likely to be required within this part of Bonnyrigg - and that the site could assist in addressing this requirement. However, no confirmation outlining how this could be achieved has yet been received. Discussions to consider other potential community uses are also being explored by NHS Lothian for other alternative sites but no further information has been received in this regard. Consequently, the above approach provides suitable flexibility for all parties to facilitate the future provision of a community or healthcare use once feasibility and demand assessments have been confirmed. Subject to agreeing the detail of the proposed marketing and servicing/remediation requirements via a legal agreement, any future facility would complement the surrounding education and residential uses and would create substantial community benefits which are actively encouraged and fully supported.

Affordable Housing

- 9.44 No specific affordable housing mix has been identified within the masterplan, however, it is noted that the applicant agrees to the provision of 25% affordable housing, which will be required to be secured by a legal agreement attached to any grant of planning permission. Further discussions with the Council's Housing Planning and Performance Manager will be required to confirm the optimum unit mix based on the Council's Housing List or to address requisite demand within any chosen registered social landlord.

Percent for Art

- 9.45 Details of an art strategy for the proposed development will be required via any subsequent MSC applications to ensure that the percent for art required by MLDP policy IMP1 are met. This can be secured via a condition on any grant of planning permission. The proposed community growing areas do not constitute 'art' and therefore additional provision will be required to accommodate new artwork.

Material Considerations

- 9.46 The following section considers whether any of the following material considerations could set aside a decision being made in accordance with the countryside MLDP allocation (for the southern part of the site) where large-scale housing development is not supported. It finds that, in this instance, there are material considerations that should be given sufficient weight to justly support for residential development within the

safeguarded land and that these outweigh a decision being made in accordance with the countryside MLDP policy allocation for the following reasons:

- i) The provision of a co-ordinated design rationale and fully detailed masterplan - The proposed development of both parcels of land allows for the provision of a fully detailed masterplan for the site (both allocated and safeguarded) based on a co-ordinated design rationale for the wider site's future development and the creation of a series of clear urban design principles that would influence the detailed design of future phases. This also allows for the resolution of technical matters, which can then be incorporated into the proposed urban design and landscape frameworks.
- ii) Calculating demand for education land - By developing a masterplan that considers the total quantum of units deliverable within both parcels of land, the maximum educational demand can be calculated. This ensures that the planning authority can expressly identify the quantum of land required for the proposed primary school within Phase1. This avoids any potential shortfall at a later date.
- iii) Confirmation of strategic transportation requirements - The potential inclusion of the safeguarded land allows other key accessibility principles to be fully considered and addressed at the earliest opportunity. Specifically, the provision of access roads to the south over the safeguarded land to the A6094. A detailed review of transportation and accessibility up front allows for the consideration of alternatives to avoid detrimental impacts to the existing road network whilst facilitating a strategic transportation solution that would result in more efficient and safer movements to/from the site.
- iv) Coordinated phasing approach - minimising development within safeguarded areas until MLDP2 - The proposed phasing approach has been carefully developed to maximise development of earlier phases on the allocated part of the site. As such, those phases subject to potential construction/delivery within the safeguarded site in the current lifetime of the MLDP would be minimal.

SPP & Presumption in Favour of Sustainable Development:

- 9.47 A balanced judgement is also required to be taken by the planning authority against the policy objectives within SPP as enacted by the 'out of date' SESPlan1 - with Para 33 introducing significant weight to the policy '*presumption in favour of development that contributes to sustainable development*'. This constitutes a material consideration in the determination of this application and Paragraph 29 of SPP outlines sustainable development principles that would be required to be considered. The planning authority's consideration against the 13 sustainable development principles within SPP outlines that there are no significant and demonstrable adverse impacts that would outweigh the proposed benefits of the proposal and a presumption in favour of sustainable development.

Material Considerations - Conclusion:

- 9.48 Having reviewed the proposed development against SPP paragraph 33 and the presumption in favour of sustainable development, and the significant material consideration that these principles (at SPP para 29) are afforded, it is considered that there are no adverse impacts that would significantly and demonstrably outweigh the above benefits in this instance. It is therefore considered that the proposed development would comply with the relevant extant provisions of the development plan and the corresponding material considerations including the wider policies of SPP.

Other Matters

- 9.49 Concerns were raised by objectors regarding the existing capacity of general practice medical facilities within the immediate area and the potential impacts of new housing on the capacity of health and care services. This matter is required to be addressed by the Midlothian Health and Social Care Partnership through the provision of sufficient health service capacity. That can involve liaison with the Council as planning authority (and initial discussions on this have been undertaken at a strategic level) but it is not, on its own, a sufficient basis in itself on which to resist or delay the application.
- 9.50 Regarding matters raised by representors and consultees and not already addressed in this report:
- Concerns relating to the preservation of design and amenity requirements to existing residential occupiers in Dalhousie Chesters Court - the masterplan includes sufficient provision to facilitate compliance with the Council's design and amenity design standards. Moreover, planting is proposed to the east of the existing residential properties, which will afford visual screening alongside provision of a community orchard to the north, which should not result in unacceptable amenity impacts to existing residents, subject to approval of any detailed design layout/s.
 - Concerns regarding potential inappropriate road layouts within/through the site (including 'rat runs') - the Council's Road Policy and Road Safety Manager have supported the proposed accesses in principle and the suitability of any internal road layouts would be confirmed within any subsequent detailed design.
 - Concerns relating to the use of outdated traffic flow figures - the scope of the transport assessment and the use of these figures was confirmed by the Council's Road Policy and Road Safety Manager as any traffic surveys undertaken during the current public health emergency would likely underestimated potential 'worst-case' traffic surveys for such assessments.

- Potential light pollution associated with street lights - this is not considered to result in adverse amenity impacts to existing residents nor the wider landscape character.
- Failure to provide a safe route or crossing through the site for riders on horseback using the Tyne & Esk trail - the masterplan includes a re-aligned bridleway which will be subject to detailed design measures (indicatively identified within the Design and Access Statement) to ensure its future suitability for multi-users, including equestrian users.

9.51 The Bonnyrigg and Lasswade Community Council also raised matters relating to the following:

- Concerns that a robust assessment of current and anticipated traffic generation has not been sufficiently addressed within the accompanying Transport Assessment and EIA Traffic and Transportation chapter and that sufficient transportation mitigation has not been proposed. In particular, assessments relating to receptor sensitivity, known traffic congestion during peak periods, consequential traffic impacts to the wider road network (i.e. Lasswade/'Dobbies' Roundabout) and the impact of crossings on traffic flows. The Council's Road Policy and Road Safety Manager has reviewed the corresponding documentation and has not objected to the proposed methodology nor its findings. They also consider that the proposed mitigation is acceptable. As such, it is considered that the above issue has been satisfactorily addressed subject to receipt of detailed design, mitigation details and transport assessments for any corresponding development phases.

9.52 The following matters have been raised in representations which are not material considerations in the determination of the application:

- Procedural matters which are specified by the Scottish Government in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 - relating to failure of the applicant to recognise nor respond fully to previous consultation response received from local residents. However, the submitted Pre Application Consultation Report outlines what measures were undertaken in responding to pre-application consultation comments.
- Failure of proposed housing to match existing residential properties. New housing development would consider and take influence from existing neighbourhoods. However, it is not required/appropriate for new development to replicate historic housing developments, particularly where any approved proposal would create its own defined character areas.

Direction

9.53 The applicant has also requested a 'direction' to amend the expiry timescales for any issued planning permission from 3 years to 15 years to reflect the indicative phasing and construction programme for the

proposed development. This timescales contemplates a 2 year lead in time from any approval to first occupation alongside a contingency period to allow for any uncertainty relating to the prevailing public health emergency and potential consequential impacts. A 15 year timescale is considered to be acceptable, in this instance, given the complexity in delivering a development of this scale.

10 RECOMMENDATION

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

The majority of the site is allocated within the Council's committed housing land supply within the Midlothian Local Development Plan 2017 where there is a presumption in favour of residential development. The remainder of the site is not allocated for residential development but safeguarded for housing. Considering the benefits of the proposed development, there are materials consideration that justify the expedient delivery of the safeguarded housing site within the safeguarded site which outweighs the corresponding countryside policy objectives including: the provision of a comprehensive masterplan to facilitate a co-ordinated, cohesive and comprehensive design rationale for the wider application site and the opportunity to calculate the maximum educational demands, including educational land requirements for the allocated and safeguarded land. There are no significant and demonstrably adverse effects that would outweigh a decision in favour of approval. Subject to approval of detailed design matters, via matters specified in conditions applications, this position is not outweighed by any other material considerations.

And:

That a direction be applied the planning permission to increase the expiry timescale from 3 years to 15 years and to allow the last matters specified in condition application to be submitted within 15 years.

Subject to:

- i) the completion of a planning obligation to secure:
 - A financial contribution towards additional primary education capacity;
 - A financial contribution towards additional secondary education capacity;
 - A financial contribution towards the A7 Urbanisation scheme;
 - A financial contribution towards leisure/sports enhancements, prioritising Poltonhall pitches/facilities;
 - A contribution towards preparing and submitting corresponding Traffic Regulation Orders to amend speed limits;

- The reservation and transfer of serviced and remediated land for the provision of a new primary school within the site;
- Marketing of land for a community/healthcare facility (Seven years from commencement of development);
- Affordable housing provision (a minimum of 25%);
- A financial contribution towards Borders Rail; and
- Maintenance of children's play areas/open space/community growing areas (including the community orchard).

The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused.

ii) the following conditions:

1. The following principles set out in the proposed masterplan (Development Framework Drawing No. 110238_OP_SW_DR_DF_1:250) submitted are approved:
 - a) The vehicular points of access for all indicative phases to existing road infrastructure;
 - b) The primary road alignment and street configuration and the corresponding housing development blocks;
 - c) The alignment of the primary road through Little Wood to connect eastern and western residential phases and the multi-user path through the southern extent of little wood;
 - d) The landscape framework insofar as it relates to the retention of Little Wood and other hedgerow planting, structure planting along the site perimeter, street tree planting and other proposed landscaped areas;
 - e) The siting of the open space, play area and SuDS infrastructure; and
 - f) The location of the proposed school and associated playing fields and MUGA;

The following matters are not approved and development shall not begin until an application for approval of matters specified in conditions for an updated masterplan for the site has been submitted to and approved by the planning authority. The masterplan shall be updated to identify how the development addresses the following:

- i. Removal of residential blocks which do not comply with the acoustic requirements within the British Standard 4142: 2014 relating to commercial uses (day time noise), World Health Organisation Night Noise Guidelines for Europe 2009 (Sleep disturbance criteria) and the Council's amenity standards (traffic noise to external gardens);

- ii. Removal of the residential development block adjacent to the proposed school (bounded by the school, community facility, SuDS basin and NCN 196) on the original masterplan;
- iii. Identifying the location of any areas of improved quality to relate solely to residential development blocks; and,
- iv. Increasing the quantum of open space provision including:
 - Within the south-eastern corner of the site, include a village green and/or kick about area(s);
 - Introducing additional 'pockets' of informal open space areas adjacent to core paths, cyclepaths and multi-user paths - including the introduction of Roundalls; and,
 - Including a meadow mix seeded bund along the south-eastern boundary of the site which can be removed once landscape structure planting has been planted around the southern boundary of the Crown Estate Land.

Thereafter, the detailed design of development within the site shall reflect the principles set out by this updated masterplan unless agreed in writing with the planning authority.

Reason: *To ensure the development is designed and planned to deliver a coherent community for the benefit of future occupants. Whilst the proposed masterplan is generally supported and assist with the creation of a co-ordinated design solution for the site and address noise attenuation requirements, landscape requirements, connectivity to the street, place making and other amendments to the development framework required to create an acceptable outcome. This includes provision of a temporary bund along the south-eastern boundary of the site to minimise landscape and visual impacts, introduced in conjunction with the detailed layout of the corresponding residential within the south-eastern part of the allocated site, or excluded if landscape structure planting is continued along the southern boundary of the Crown Estate land to the east.*

2. No more than 1,032 residential units shall be erected on the site unless otherwise agreed by way of separate grant of planning permission.

Reason: *The application has been assessed on the basis of a maximum of 1,032 dwellings being built on the site. Any additional dwellings would have a further impact on local infrastructure, in particular education provision, and additional mitigation measures may be required. Any such measures would need further assessment by way of submission and approval of a separate planning application.*

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 each residential phase of the development, the provision of affordable housing, the provision of open space, children's play provision, structural landscaping, SUDS provision, on and off-site transportation infrastructure and improvements, community growing areas, acoustic bunds, percent for art and areas of improved quality. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

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.*

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 that phase including the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority for each phase. Details of the scheme, including a programme for completion, shall include:
 - i. existing and finished ground levels for all roads, footways and multi-user paths/cycle ways in relation to a fixed datum;
 - ii. the proposed vehicular, cycle and pedestrian accesses into the site;
 - iii. the proposed roads, footways and turning facilities designed to an adoptable standard) and multi-user paths/ cycle ways including suitable walking and cycling routes;
 - iv. details, including cross sections, of any roads/footpaths/cyclepaths crossing Little Wood to show the carriageway, footpath/multiuser path, services, verges, tree planting, tree protection, landscape planting embankments/gradients and working areas;
 - v. proposed visibility splays, traffic calming measures, lighting and signage;
 - vi. proposed residents and visitor car parking arrangements to meet the Council's Parking Standards;
 - vii. proposed cycle parking/storage facilities;
 - viii. proposed connections to Core Paths;
 - ix. proposed alignment, surface materials, widths and verge details for Core Path realignments and any upgrades;
 - x. The new bus loop road linking the stub end at Bannockrigg Road with Castell Maynes Avenue formed to a minimum

- width of at least 6.5m wide with details and locations of bus stops and shelters along the route;
- xi. Details of the proposed roundabout on the B6392;
- xii. Details of the proposed roundabout on Rosewell Road;
- xiii. Details of proposed off-site improvements to the local road network identified in Chapter 4 of the Transport Assessment and the EIA Schedule of Mitigation (Traffic & Transport Section);
- xiv. The section of core path (National Cycle Route 196) within the site increased in width to a minimum of 4.0m width where practical;
- xv. Details of a traffic signal controlled crossing to upgrade the existing informal pedestrian/equestrian crossing of the B6392;
- xvi. Resident and visitor parking to meet current council standards;
- xvii. A network or publicly available rapid-charging electric vehicle charging points within the development;
- xviii. Details of a Travel Plan document (travel pack) for residents; and,
- xix. a programme for completion for the construction of road improvements, accesses, roads, footpaths, cycle paths and associated works.

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. Also to ensure that a network of electric vehicle chargers is provided in line with Policy TRAN 5 of the *Midlothian Local Development Plan 2017*.

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 a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority for each 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. substantial new planting, structure planting and screening planting required in accordance with the EIA Schedule of Mitigation;
- v. location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- vi. schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vii. programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses on adjoining plots are occupied;
- viii. proposed car park configuration and surfacing;
- ix. proposed footpaths and cycle paths (designed to be unsuitable for motor bike use);
- x. proposed areas of open space, linear parks/green corridors, play areas (including equipped play areas, informal kick about areas, informal open space and natural play areas). Additional areas of open space shall also be provided within the south-eastern corner of the site and pockets of open space areas adjacent to core paths, cyclepaths and multi-user paths;
- xi. proposed cycle parking facilities;
- xii. proposed area of improved quality (minimum of 20% of the proposed dwellings);
- xiii. construction details for landscape elements and planting, fencing with mammal passage points, woodland planting mix, habitat features,
- xiv. cross sections of bunds, woodland buffer planting and acoustic fencing
- xv. specifications for roadside planting and drainage features including cross sections of roads, footpaths, drainage swales and utilities with adequate rooting volume for street trees;
- xvi. ecological enhancements identified within the EIA Report or any repeat surveys shown on the corresponding detailed landscape plans;
- xvii. green network arrangements showing alignment, widths, footpaths, verges and planting;
- xviii. Tree root protection areas, construction exclusion zones and dwelling standoffs overlaid corresponding detailed landscape plans; and
- xix. visual mitigation, including retained landscape and bunding elements within the EIA schedule of mitigation

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 Midlothian Local Development Plan 2017 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 siting, design and external appearance of all residential units and other structures has been submitted to and approved in writing by the planning authority for each 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. These materials will also include those proposed in the area of improved quality (20% of the total number of proposed dwellings and not any community/education areas). 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.*

7. 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 Woodland Management Plan and programme is submitted to and approved by the planning authority to show existing woodland, trees and hedgerows to be retained and new areas of woodland and tree planting. The plan/ programme shall include a list of proposed operations with relevant timescales and locations, and shall refer to proposed quantities, numbers or volumes when estimating required tree thinning. Replacement planting shall also be quantified, specified (including proposals for protection of new woodland planting) and indicative locations be identified. Approaches shall also include measures identified within the EIA Schedule of Mitigation (Woodlands Section).

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

8. 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 Landscape and Habitat Management Plan responding to the ecological recommendations, findings and mitigation measure within the EIA Report (Technical Appendix 6 - Ecology) and in response to any repeat protected species surveys (prepared no more than 12 months in advance of any application submission) has been submitted to and approved by the planning authority. The details shall include:
- i. Pre-construction, construction phase and operational phase measures to translate mitigation measures into the design;
 - ii. Specific retention, protection and restoration proposals for of Pittendreich Burn;
 - iii. Proposed measures to minimise human interference to the southern part of Little Wood;
 - iv. The quantum, locations and areas for habitat features and details where these features are constructed or proprietary features;
 - v. Species Protection Plans for protected species identified in the surveys of protected species or repeat surveys for protected species;
 - vi. Measures to mitigate non-native species;
 - vii. Ecological mitigation measures identified within the EIA Schedule of Mitigation (Ecology Section) for corresponding species.

This document should feed directly into working method statements, protection plans, detailed design and layout for all elements of the design and site layout including lighting proposals and SUDS as well as landscape proposals and man-made habitat features. 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 development accords with the requirements of policy DEV5 of the Midlothian Local Development Plan 2017.*

9. 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 Tree, Woodland and Hedgerow Retention and Protection Plan for the corresponding phase has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
- i. root protection areas and construction exclusion zones;
 - ii. dwelling standoff distances of 20m from the corresponding boundary fence to Little Wood and between 10–15m from individual retained trees on the foot/cycleway.

Protection and stand-off measures shall also be shown on corresponding landscape plans. 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 development accords with the requirements of policy DEV5 of the Midlothian Local Development Plan 2017.*

10. 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 effective drainage and flood management for each phase has been submitted to and approved in writing by the planning authority in consultation with SEPA. Details of the scheme shall include:
- i. Drainage and surface water management arrangements to manage surface water runoff including a 'wet' sustainable urban drainage system pond(s);
 - ii. Measures identified within the EIA Schedule of Mitigation (Hydrology & Hydrogeology Section);
 - iii. Details of the proposed culvert crossing point and mammal passage;
 - iv. Finished floor levels of residential properties incorporating a freeboard of 0.3m where necessary;
 - v. Finished floor levels of the primary school to be raised above the 1 in 1000-year (including 20% blockage) flood level;
 - vi. Details to show no increased flood risk to downstream receptors associated with any replacement culvert;
 - vii. All built development, including SUDS and any land raising to be outwith the 1 in 200 year plus blockage scenario flood level; and
 - viii. No built development over the existing culverted watercourse along the southern boundary and a buffer maintained.

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: *The planning application is in principle and the details required are to ensure the surface water from the site can be appropriately treated and to ensure that levels on the site are appropriate in relation to flood risk and to ensure biodiversity enhancement associated with such infrastructure.*

11. Development shall not begin on any individual phase of development (identified in compliance with Condition 3) until the applicant has undertaken and reported on a programme of archaeological (trial trench evaluation and archaeological watching brief) work and an application for approval of matters specified in conditions (including a written scheme of investigation) has been submitted to and approved in writing by the planning authority. The approved programme of works shall be carried out by a professional archaeologist. Approaches shall also incorporate mitigation measures identified within the EIA Schedule of Mitigation (Archaeology and Cultural heritage Section). 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 this development does not result in the unnecessary loss of buried archaeological material in accordance with Policy ENV24 and ENV25 of the Adopted Midlothian Local Plan.*

12. Prior to occupation of the 250th dwelling, an application for approval of matters specified in conditions for a scheme, including a programme for development and a management plan, for the community growing facilities shall be submitted to and approved by the planning authority. Development shall thereafter be carried out in accordance with the approved details and maintained in accordance with the approved management plan. The community growing facilities shall be available for use prior to the occupation of the 300th dwelling.

Reason: *To ensure an appropriate design and the timely delivery of community growing facilities required by the approved development.*

13. Development shall not begin on any individual phase of development (identified in compliance with Condition 3) until an application for approval of matters specified in conditions for a scheme to deal with any contamination of the site and 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, including mitigation measures identified within the EIA Report (Technical Appendix 9 – Geology & Soils) 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; and
- 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
- v. On completion of the decontamination/remediation works, a validation report(s) for respective phases/plots confirming that the works have been carried out in accordance with the approved scheme. Before any phase/plot is occupied for residential purposes, the measures to decontaminate that phase/plot shall be fully implemented as approved by the planning authority.

For previous mineral workings:

- vi. Prior to the submission of any application for the approval of a detailed site layout for each phase, the undertaking of appropriate schemes of intrusive site investigations for the recorded mine entries and shallow mining.
- vii. The submission of a report of findings arising from the schemes of intrusive site investigations;
- viii. The submission of a layout plan which identifies the locations of the mine entries and appropriate 'no-build' zones around these features; and
- ix. The submission of a scheme of remedial treatment works for the mine entries and shallow mine workings for approval.
- x. Prior to, or during development, the implementation of the approved remedial treatment works.

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 that any contamination or previous mineral workings on the site is adequately identified and that appropriate decontamination measures and/or remedial treatments are undertaken to mitigate the identified risk to site users/occupiers and construction workers, built development on the site, landscaped areas, and the wider environment.

14. Development shall not begin on any individual phase of development (identified in compliance with Condition 3) until an

application for approval of matters specified in conditions for each phase setting out details, including a timetable of implementation, of 'Percent for Art' has 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.

15. Development shall not begin until an application for approval of matters specified in conditions for each phase 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 or such alternatives as may be agreed in writing with the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each dwellinghouse. 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.

16. Within 5 years from the submission of the first application for approval of matters specific in conditions, an updated scheme setting out the scope and feasibility of a community heating scheme for the development hereby approved and; if practicable, other neighbouring developments/sites, in accordance with policy NRG6 of the Midlothian Local Development Plan, shall be submitted for the prior written approval of the planning authority to assess technical feasibility and financial viability of a community heating scheme within the development. Thereafter, if it is found that a community heating scheme is technically and financially viable at that time for the remaining phases of the approved development, no dwelling shall be occupied within any phases not yet approved by approval of matters specified in condition applications, 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: To ensure the provision of a community heating system for the site to accord with the requirements of policy NRG6 of Midlothian Local Development Plan 2017 and in order to promote sustainable development.

17. No building shall have an under-building that exceeds 0.5 metres in height above ground level unless otherwise agreed in writing by the planning authority.

Reason: *Under-building exceeding this height is likely to have a materially adverse effect on the appearance of a building.*

18. Development shall not begin until an application for approval of matters specified in conditions for a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:
- i. Details of a separate construction access;
 - ii. signage for construction traffic, pedestrians and other users of the site;
 - iii. controls on the arrival and departure times for construction vehicles, delivery vehicles and for site workers (to avoid school arrival/departure times);
 - iv. details of piling methods (if employed);
 - v. details of any earthworks;
 - vi. control of emissions strategy;
 - vii. a Construction Traffic Management (CTMP) with details of construction haul routes that avoid construction traffic through the existing Hopefield development to the north and through Bonnyrigg town centre;
 - viii. a dust management plan strategy;
 - ix. Noise Management Plan to identify measures to minimise construction noise;
 - x. waste management and disposal of material strategy;
 - xi. temporary construction drainage details / SUDS;
 - xii. a community liaison representative will be identified to deal with the provision of information on the development to the local community and to deal with any complaints regarding construction on the site;
 - xiii. prevention of mud/debris being deposited on the public highway;
 - xiv. material and hazardous material storage and removal; and
 - xv. controls on construction, engineering or any other operations or the delivery of plant, machinery and materials (to take place between 0700 to 1900hrs Monday to Friday and 0800 to 1300hrs on Saturdays); and
 - xvi. Measures to address the EIA Schedule of Mitigation (Geology & Soils) approaches with respect to 'Loss of soils or soil attributes'.

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: *In order to control the construction activity on the site, ensure environmental impact during the construction period is acceptable and to ensure appropriate mitigation is in place.*

19. Prior to the occupation of the first dwellinghouse for each phase (identified in compliance with Condition 3), the affordable housing mix in terms of; size of units (bedroom numbers), the type of units (dwellinghouses and/or flats) and the location of the units shall be approved in writing with the planning authority.

Reason: To ensure 25% of the units on the site are affordable housing units in accordance with policy DEV3 of the Midlothian Local Development Plan 2017 and that the units are appropriate in terms of their size and type to meet local need.

20. Development shall not begin on any individual phase of development (identified in compliance with Condition 3) until an application for approval of matters specified in conditions, for separate scheme(s) to deal with noise mitigation / attenuation from commercial and traffic noise. This shall include the submission and approval of updated noise impact assessments for corresponding phases to provide details of stand-off distances, acoustic bunds, acoustic fencing and any other attenuation measures (including but not limited to glazing, insulation, building fabric, mechanical ventilation & heat recovery in accordance with Table 4 of BS 8233:2014) to address the noise mitigation principles within the EIA Technical Appendix 7 - Environmental Noise Impact Assessment and EIA Schedule of Mitigation (Noise Section), updated to accord with the following:
- i. Daytime noise levels from commercial uses shall comply with BS4142:2014 Methods for rating and assessing industrial and commercial sound (7:00am to 7:00pm) including at 3.5 meters from the facade of any residential property (1m from the façade in the case of the upper floors) and shall not exceed the background noise level by more than 5dB;
 - ii. Noise arising from the night time delivery of crash vehicles to the existing commercial use (Coachworks) on Rosewell Road (11.00 p.m. to 07.00 a.m.) shall not exceed the night time sleep disturbance criteria within the World Health Organisation Night Noise Guidelines for Europe 2009 and the maximum level with windows open of 42dB L_{max} (fast) (internal); and
 - iii. Road Traffic Noise shall comply with the criteria for daytime external garden amenity at 50dB L_{aeq} (16hour) with updated mitigation measures, as necessary.

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. Any recommended noise mitigation measures shall be implemented prior to the occupation of the dwellinghouses.

Reason: To protect residential amenity and minimise unacceptable noise impacts to future residents.

21. Midlothian Council design standards for residential use, in relation to anonymous noise sources, are as follows and they shall be complied with on this site, unless required to comply with the measures identified within Condition 20 (above):
50 dB LAeq(16hr) for daytime external garden amenity;
35 dB LAeq(16hr) for daytime internal living apartment,
30 dB LAeq(8 hours) for night time internal living apartment (excluding fixed plant controlled by NR25 or NR20 if tonal).

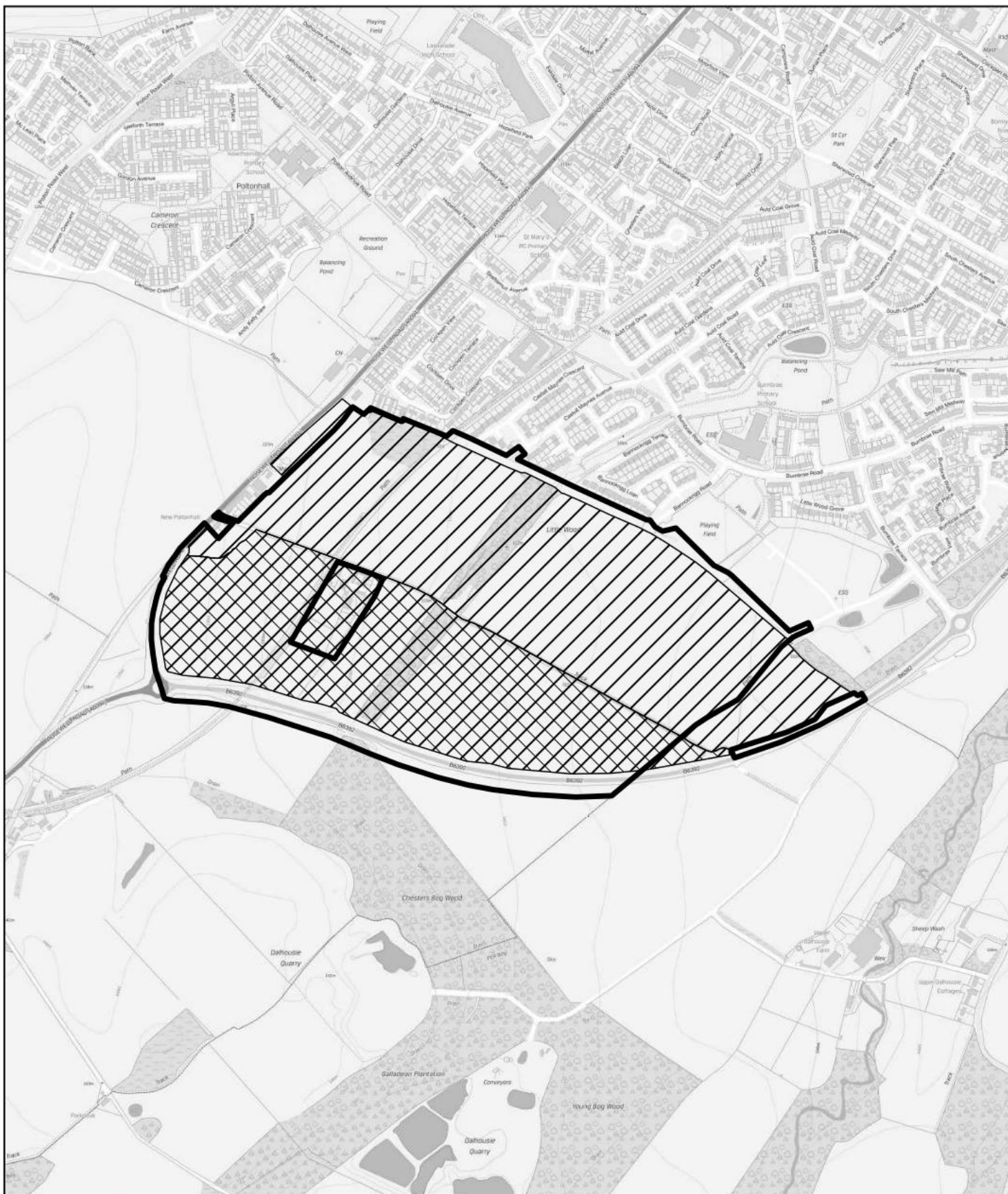
Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

22. Noise levels in relation to the new proposed primary school shall comply with Building Bulletin 93: Acoustic Design of Schools or any update to this guidance.

Reason for conditions 20 to 22: To prevent noise or vibration levels from adversely affecting the occupants of noise sensitive properties at the site

Peter Arnsdorf
Planning Manager

Date:	25 March 2021
Application No:	20/00151/ PPP
Applicant:	Taylor Wimpey UK Ltd
Agent:	Holder Planning Ltd
Validation Date:	6 March 2020
Contact Person:	Stephen Iannarelli
Email:	stephen.iannarelli@midlothian.gov.uk
Background Papers:	17/00706/SCO, 17/00367/PAC



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

Application for planning permission in principle for residential development; community facilities, primary school and associated work at Hopefield Farm 2, Rosewell Road, Bonnyrigg



- STRAT 3 - Strategic Housing Land Allocation (Site Hs12))



- STRAT 3 - Longer Term Housing Safeguarding

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

Midlothian Council Licence No. 100023416 (2021)

Scale: 1:10,000

File No: 20/00151/PPP
Page 214 of 216

2



Development Framework

- Site Boundary: 57.30ha
- Crown Estate Land: 3.32ha
- Primary Streets
- Secondary Streets (Indicative)
- Key Tertiary Streets (Indicative)
- Existing Access Retained
- Existing Core Path
- Realigned Core Path 6-35 Tyne Esk Trail (Bridleway)
- Key Pedestrian Routes
- Shared Cycle/Pedestrian Route

Development Areas

- Development Area: 25.89ha (Including local access routes and incidental Open Space <0.1ha)
- SCH School area: 2.25ha
- CF Community Facilities: 0.67ha
- Open Space
- Open Space: 8.25ha
- S SuDS Areas: 1.33ha
- O Potential Orchard: 0.2ha
- PB Structural Open Space: 2.75ha
- CP Cycle Path: 0.90ha
- EB Existing Bunding Retained: 1.13ha
- Existing Woodland: 2.97ha
- L Landowner offsets required 0.38ha
- BL Southern Bridleway Link 0.48ha

TOTAL OPEN SPACE: 18.73ha (Includes 0.34ha within Community Facilities)

open
optimised environments

EDINBURGH 2nd Floor | Quartermile Two | 2 Lister Square | Edinburgh | EH3 9GL
t 0131 221 5920 w optimisedenvironments.com

LONDON Warnford Court | 29 Throgmorton Street | London | EC2N 2AT
t 020 79474062 w optimisedenvironments.com

MANCHESTER 13 Swan Street | Manchester | M4 5JJ
t 0161 696 7550 w optimisedenvironments.com

Optimised Environments Ltd. Registered in Scotland SC20860.
Registered address: 2nd Floor | Quartermile Two | 2 Lister Square | Edinburgh | EH3 9GL.

Date: 09.11.2018

Project:
110238_Dalhousie Chesters
Application for Planning Permission in Principle

Drawing Title:
Development Framework (07)
110238_OP_SW_DR_DF

SCALE: 1:2,500@A1 1:5,000@A3
© Getmapping 2018.
© Crown Copyright. All rights reserved. Licence no. 100019980/0100031673.

