

# Notice of meeting and agenda



## Planning Committee

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

**Date:** Tuesday, 15 May 2018

**Time:** 14:00

**John Blair**  
Director, Resources

**Contact:**

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

Clerk Email: [mike.broadway@midlothian.gov.uk](mailto:mike.broadway@midlothian.gov.uk)

**Further Information:**

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

**Audio Recording Notice:** Please note that this meeting will be recorded. The recording will be publicly available following the meeting. The Council will comply with its statutory obligations under the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002.

## **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 Declarations 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 Minutes of Previous Meeting**

---

- |            |   |               |
|------------|---|---------------|
| <b>4.1</b> | Minute of Meeting held on 3 April 2018 - For Approval | <b>5 - 14</b> |
|------------|---|---------------|

## **5 Public Reports**

---

- |            |   |                |
|------------|---|----------------|
| <b>5.1</b> | Penicuik Heritage Regeneration Project – Report by Head of Communities and Economy. | <b>15 - 60</b> |
|------------|---|----------------|

- |            |   |                |
|------------|---|----------------|
| <b>5.2</b> | Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage – Report by Head of Communities and Economy. | <b>61 - 66</b> |
|------------|---|----------------|

- |            |  |                |
|------------|--|----------------|
| <b>5.3</b> | Appeals and Local Review Body Decisions - Report by Head of Communities and Economy. | <b>67 - 78</b> |
|------------|--|----------------|

- |            |   |                |
|------------|---|----------------|
| <b>5.4</b> | Pre-Application Consultation - Proposed Residential Development with Associated Access, Open Space and Associated Works at Land North West of Moat View, Roslin (18/00139/PAC) - Report by Head of Communities and Economy. | <b>79 - 84</b> |
|------------|---|----------------|

Applications for Planning Permission Considered for the First Time – Reports by Head of Communities and Economy.

- |            |  |                |
|------------|--|----------------|
| <b>5.5</b> | Section 42 Applications to Remove Condition 5 of Planning Permissions 201/83 and 590/83 which Restricts the Occupancy of 19a Damhead, Lothianburn (18/00150/S42 AND 18/00151/S42). | <b>85 - 98</b> |
|------------|--|----------------|

- |            |   |                 |
|------------|---|-----------------|
| <b>5.6</b> | Application for Planning Permission for the Erection of Petrol Filling Station and Shop; Restaurant with Drive Thru, Cafe with Drive Thru and Associated Works at Land at Sheriffhall South, Melville Gate Road, Dalkeith (17/00537/DPP). | <b>99 - 118</b> |
|------------|---|-----------------|

No private reports to be discussed at this meeting.

Plans and papers relating to the applications on this agenda can also be viewed online at [www.midlothian.gov.uk](http://www.midlothian.gov.uk).





# Minute of Meeting



## Planning Committee

| Date         | Time    | Venue  |
|--------------|---------|--|
| 3 April 2018 | 2.00 pm | Council Chambers, Midlothian House, Buccleuch Street, Dalkeith |

### Present:

|                          |                      |
|--------------------------|----------------------|
| Councillor Imrie (Chair) | Councillor Alexander |
| Councillor Baird         | Councillor Cassidy   |
| Councillor Curran        | Councillor Hackett   |
| Councillor Hardie        | Councillor Johnstone |
| Councillor Lay-Douglas   | Councillor McCall    |
| Councillor Milligan      | Councillor Muirhead  |
| Councillor Munro         | Councillor Russell   |
| Councillor Smail         | Councillor Wallace   |
| Councillor Winchester    |                      |

## 1. Apologies

---

No apologies were received

## 2. Order of Business

---

The order of business was confirmed as outlined in the agenda.

## 3. Declarations of interest

---

No declarations of interest were received.

## 4. Minutes of Previous Meetings

---

With regards to the minutes of 20 February 2018, Councillor Smaill raised a question regarding the decision of Agenda item 5.5 Application for Planning Permission in Principle for the Erection of a Retail Unit at Soutra Mains Farm, Pathhead (17/00951/PPP) and it was clarified that the minute was an accurate reflection of the conclusion of the discussion, however, it was confirmed that additional requirements could be secured by a planning condition and this was accepted by the Committee.

Thereafter the Minutes of Meeting of 20 February was approved as a correct record.

## 5. Reports

---

| Agenda No   | Report Title   | Presented by:  |
|---|--|----------------|
| 5.1   | The Planning (Scotland) Bill on Reforms to the Planning System | Peter Arnsdorf |
| <b>Outline of report and summary of discussion</b>  |  |                |
| <p>There was submitted a report dated 27 March 2018 by the Head of Communities and Economy, updating the Committee with regard to the reforms to the Planning System proposed through the Planning (Scotland) Bill.</p> <p>The Planning Manager presented the report to the Committee providing the background on the review of the Scottish Planning System and the introduction of the Planning (Scotland) Bill to the Scottish Parliament on 4 December 2017. The report detailed the current stage of the Planning Bill and a summary of the main changes proposed by the Planning Bill were detailed in Appendix A to the Report.</p> <p>Thereafter the Planning Manager responded to questions raised by Members with regards to Development Plans and the issues around infrastructure and developer's contributions. It was agreed that after stage 1 of the Planning Bill a Member's Briefing would be arranged.</p> |  |                |
| <b>Decision</b>   |  |                |
| <p>The Committee:</p> <ul style="list-style-type: none"><li>(a) Agreed that a Briefing would be arranged for Members once stage 1 of the Planning Bill was completed.</li><li>(b) To otherwise note the contents of the Report.</li></ul>   |  |                |
| <b>Action</b>   |  |                |
| Head of Communities and Economy   |  |                |

| Agenda No  | Report Title                                       | Presented by:  |
|--|--|----------------|
| 5.2  | Development Plan Scheme for Midlothian Number 10 - | Peter Arnsdorf |
| <b>Outline of report and summary of discussion</b>   |  |                |
| <p>There was submitted a report dated 27 March 2018 by the Head of Communities and Economy seeking approval for the Development Plan Scheme for Midlothian No. 10 (DPSM10) which was required to be published annually to satisfy legislative requirements. Each year local planning authorities were required to prepare and submit a Development Plan Scheme (DPS) to Scottish Ministers setting out their intentions with respect to preparing, reviewing and consulting on the development plans for its area over the coming twelve months.</p> |  |                |
| <b>Decision</b>  |  |                |
| <p>The Committee:</p> <ul style="list-style-type: none"> <li>(a) Approved the Development Plan Scheme for Midlothian No.10 (DPSM10) (appended to this report).</li> <li>(b) Agreed to the publication of the DPSM10, copies to be placed in all public libraries and to formally submit a copy to Scottish Ministers.</li> </ul>   |  |                |
| <b>Action</b>  |  |                |
| Head of Communities and Economy  |  |                |

| Agenda No  | Report Title                                    | Presented by:  |
|--|---|----------------|
| 5.3  | Supplementary Guidance: Special Landscape Areas | Peter Arnsdorf |
| <b>Outline of report and summary of discussion</b>   |   |                |
| <p>There was submitted a report dated 27 March 2018 by the Head of Communities and Economy seeking the Committee's agreement to undertake a formal consultation on its proposed 'Special Landscape Areas' supplementary guidance. At its meeting of 7 November 2017 the Council adopted the Midlothian Local Development Plan 2017 (MLDP) which included a commitment to prepare Supplementary Guidance and Planning Guidance on a number of topic areas including special landscape areas.</p> <p>The draft guidance would be made publically available on the Council's website for period of no less than 28 days. The Community Councils, the Scottish Environment Protection Agency (SEPA), Scottish Wildlife Trust, Scottish Water, the Forestry Commission and Scottish Natural Heritage would be notified of the draft guidance and invited to make comment.</p> |   |                |
| <b>Decision</b>  |   |                |
| <p>The Committee:</p> <ul style="list-style-type: none"> <li>(a) Approved the draft Special Landscape Areas Supplementary Guidance for consultation.</li> <li>(b) Considered a further report on the Special Landscape Areas Supplementary Guidance following the proposed consultation.</li> </ul>  |   |                |
| <b>Action</b>  |   |                |
| Head of Communities and Economy  |   |                |

| Agenda No  | Report Title   | Presented by:  |
|--|--|----------------|
| 5.4  | Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage | Peter Arnsdorf |
| <b>Outline of report and summary of discussion</b>   |  |                |
| <p>There was submitted a report dated 27 March 2018 by the Head of Communities and Economy updating the Committee with regard to 'major' planning applications, formal pre-application consultations by prospective applicants, and the expected programme of applications due for reporting to the Committee.</p> <p>The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants was outlined in Appendices A and B attached to this report.</p> |  |                |
| <b>Decision</b>  |  |                |
| <p>The Committee noted the major planning application proposals which were likely to be considered by the Committee in 2018 and the updates for each of the applications.</p>  |  |                |

| Agenda No   | Report Title                            | Presented by: |
|---|---|---------------|
| 5.5   | Appeals and Local Review Body Decisions |               |
| <b>Outline of report and summary of discussion</b>  |   |               |
| <p>There was submitted a report dated 27 March 2018 by the Head of Communities and Economy informing the Committee of the notices of review determined by the Local Review Body (LRB) at its meeting in February 2018 and two appeal decisions received from Scottish Ministers.</p> <p>Appended to the report were copies of the following appeal decision notices from the Scottish Government, Planning and Environmental Appeals Division:-</p> <ul style="list-style-type: none"> <li>Dated 20 February 2018, an appeal against a refusal to issue a High Hedge Notice regarding a hedge at 41 Newmills Road, Dalkeith had been upheld and a High Hedge Notice had been issued requiring a reduction in the height of a section of hedge.</li> <li>Dated 27 February 2018, an appeal against non-determination of planning application for residential development on land north of Dalhousie Dairy, Bonnyrigg (allocated housing site Hs10) had been upheld subject to conditions. The Reporter appointed by the Scottish Ministers issued a decision advising the Council of the intention to grant planning permission subject to the conclusion of a legal agreement to secure developer contributions in October 2017. A copy of this decision was reported to the Committee at its meeting in October 2017. A decision had now been issued following the conclusion of the legal agreement securing developer contributions.</li> </ul> <p>Councillor Milligan raised concerns with regards to the decision notice on the land North of Dalhousie Dairy, Bonnyrigg, Midlothian, EH19 3NZ and the wider ramifications of this, as well as the financial impact on the Council to provide Education. It was agreed that an urgent meeting would be set up with Education</p> |   |               |

and Planning to brief the 3 local Elected Members fully on the impact of this decision.

#### Decision

The Committee:

- (c) Agreed that an urgent meeting would be arranged for the 3 local Elected Members with Education and Planning.
- (d) To otherwise note the decision made by the Local Review Body at its meeting in February 2018 and the appeal decisions by Scottish Ministers.

#### Action

Head of Communities and Economy

| Agenda No   | Report Title   | Presented by:  |
|---|--|----------------|
| 5.6   | Proposed Residential Development Comprising 79 Dwellings at Land South West of Newbattle Community High School, Morris Road, Newtongrange (18/00102/PAC) | Peter Arnsdorf |
| <b>Outline of report and summary of discussion</b>  |  |                |
| <p>There was submitted a report dated 27 March 2018 by the Head of Communities and Economy advising that a pre-application consultation had been submitted regarding residential development comprising of 79 dwellings at land south west of Newbattle Community High School, Morris Road, Newtongrange.</p> <p>The pre-application consultation had been 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 development.</p> <p>The Planning Manager highlighted the main sections as detailed in the Report and responded to a question raised by Councillor Johnstone with regards to the two storey and three storey flats and the entrance to the site. The Planning Manager confirmed he would report back to the applicant on the issues raised.</p> |  |                |
| <b>Decision</b>   |  |                |
| <p>The Committee noted:</p> <ul style="list-style-type: none"><li>(a) The provisional planning position set out in this report</li><li>(b) That any comments made by Members would form part of the minute of the Committee meeting.</li><li>(c) That the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.</li><li>(d) The Planning Manager would raise the Committee's concerns with the Applicant.</li></ul>   |  |                |
| <b>Action</b>   |  |                |
| Head of Communities and Economy   |  |                |

| Agenda No  | Report Title   | Presented by:  |
|--|--|----------------|
| 5.7  | Application for Planning Permission for the Erection of Dwelling house; Garage and Stable Block; Formation of Access; Areas of Hard Standing and Associated Works on Land North Of Crichton Village Pathhead (17/00939/DPP). | Peter Arnsdorf |
| <b>Outline of report and summary of discussion</b>   |  |                |
| <p>With reference to paragraph 5.7 of the Minutes of 20 February 2018 the Committee having heard from the Chair, agreed to continue consideration of the application to allow for a site inspection visit to take place. Following a site visit on 2 April 2018, the report dated 8 February was re-submitted by the Head of Communities and Economy concerning the above application.</p> <p>The Planning Manager presented the report to the Committee highlighting the main sections from within the report and the recommendation to grant planning permission subject to conditions.</p> <p>Councillor Smaill declared an interest as being directly and indirectly interested in 25 acres within the conservation area mostly in Borthwick area, a Trustee of Crichton Kirk and a Trustee of Scottish Civic Trust which was engaged in place making and also supporting conservation areas.</p> <p>Thereafter a lengthy discussion followed with regards to the proposed modern dwelling house within a Conservation area and various Members highlighted their reasons for and against this new build.</p> <p>Councillor Smaill, seconded by Councillor Milligan moved that the planning application be refused on the grounds of this being a modern dwelling house within a conservation area.</p> <p>As an amendment Councillor Cassidy, seconded by Councillor Baird moved that planning permission be granted for the reasons detailed in the report.</p> <p>On a vote being taken, five Members voted for the Motion and 10 Members voted for the amendment which accordingly became the decision of the meeting.</p> |  |                |
| <b>Decision</b>  |  |                |
| The Committee agreed that planning permission was granted for the reasons and conditions as detailed in the recommendation within the report.  |  |                |
| <b>Action</b>  |  |                |
| Head of Communities and Economy  |  |                |

| Agenda No | Report Title  | Presented by:  |
|-----------|---|----------------|
| 5.8       | Application for Planning Permission for the Erection of Two Storey Drive Through Restaurant; Alterations to Existing Car Park and Access Roads at Land At Tesco Car Park, Hardengreen, Dalkeith (17/00944/DPP). | Peter Arnsdorf |

#### Outline of report and summary of discussion

With reference to paragraph 5.6 of the Minutes of 20 February 2018 the Committee deferred consideration of the application to enable the applicant to provide additional information. The applicant was asked to provide to additional information on the measures taken to minimise litter; the frequency with which litter picks will occur; the areas that will be covered by the litter picks; what litter will be picked; and the location of any litter bins that will be provided. Additional information was also requested to demonstrate that the development would not create queuing on Eskbank Roundabout or the approaches to the roundabout (including the internal road network within the Tesco site).

There was a report submitted dated 27 March 2018 by the Head of Communities and Economy updating the Committee on the additional information provided. The Planning Manager presented the report to the Committee summarising the application, highlighting the additional information provided by the applicant and the consultation responses and representations received.

Thereafter the Planning Manager responded to questions and comments raised by Members regarding the additional information provided and various Members raised concerns for and against granting planning permission.

Councillor Milligan, seconded by Councillor Russell moved to refuse the planning application on the grounds that applications of this nature i.e. restaurant should be located in Town Centres.

As an amendment Councillor Hackett, seconded by Councillor Hardie moved that planning permission be granted for the reasons detailed in the report.

On a vote being taken, five Members voted for the motion and 9 Members voted for the amendment which accordingly became the decision of the meeting.

#### Decision

The Committee agreed that planning permission was granted for the reasons and conditions as detailed in the recommendation within the report.

#### Action

Head of Communities and Economy

| Agenda No | Report Title  | Presented by:  |
|-----------|---|----------------|
| 5.9       | Section 42 Application to Amend Condition 4, to change the Process by which The Masterplan can be Amended, imposed on a Grant of Outline Planning Permission (02/00660/OUT) for Residential, Industrial and Commercial Floor Space, Community Facilities (including New Primary Schools), Associated Landscaping with the Provision for Sport and Recreation and New Transport Facilities at Land Bounded by A720, Old Dalkeith Road And The Wisp, Millerhill (17/00650/S42). | Peter Arnsdorf |



#### Outline of report and summary of discussion

There was submitted a report dated 27 March 2018 by the Head of Communities and Economy detailing a Section 42 Application as detailed above. The Planning Manager presented the report to the Committee explaining how the Section 42 is implemented.

The masterplan setting out the development strategy for Shawfair was approved as part of the outline application and the supplementary guidance. The current application made under Section 42 of the Planning Act was to change the process by which the Shawfair masterplan could be amended. The applicant was seeking a means in which the masterplan could be amended by a matters specified in condition application rather than a planning application. This meant that the applicant could make changes to the masterplan without going through the 12 week public consultation process every time a change regardless of the scale was required as part of the development over the next 15 – 20 years.

A Section 42 application, was in itself a planning application - a particular kind of planning application for development without complying with a condition/s previously imposed on an earlier grant of planning permission. A grant of planning permission under Section 42 resulted in an entirely new planning permission which would supersede the original permission if implemented. The principle, layout and form of development were not subject to assessment, however as a new planning application it should be subject to a new/amended legal agreement to secure developer contributions. The recommendation was to grant planning permission subject to developer's contributions and conditions.

Councillor Curran with agreement of the Chair distributed a letter of objection received and asked for clarification on the concerns within the letter and confirmation that in approving this application it would not remove significant planning control from Midlothian Council. The Planning Manager confirmed in approving this application it approved a change to the process in removing the 12 week pre consultation process when a change to the Masterplan was required but did not remove the level of scrutiny and assessment the Council had and any changes to the Masterplan would still require a formal planning application.

Thereafter the Planning Manager responded to various questions raised by Members providing further assurances that this did not remove the control and scrutiny from Midlothian Council and there was no financial risk to the Council. It was agreed that a presentation on the Shawfair Masterplan would be provided to update Members on this development.

#### Decision

The Committee agreed:

- (a) That a presentation would be arranged to update Members on the Shawfair Masterplan.
- (b) To grant the planning permission for the reasons as set out in the report.

#### Action

Head of Communities and Economy



| Agenda No   | Report Title   | Presented by:  |
|---|--|----------------|
| 5.10  | Application for Planning Permission for the Erection of 155 Dwelling houses and 36 Flatted Dwellings, Formation of Access Roads, SUDS and Car Parking and Associated Works at Land 470 metres West of Corby Craig Terrace, Bilston (17/00968/DPP). | Peter Arnsdorf |
| <b>Outline of report and summary of discussion</b>  |  |                |
| <p>There was submitted a report, dated 3 April 2018 by the Head of Communities and Economy advising that an application had been submitted for the erection of 155 dwelling houses and 36 flatted dwellings, formation of access roads, suds and car parking and associated works at land 470 metres west of Corby Craig Terrace, Bilston. The Planning Manager presented the report highlighting the main sections from within the report.</p> <p>The application was accompanied by an indicative masterplan for the whole of site HS16. It illustrated how the proposed 'block' layout for the site fitted with the wider area. It was stated that there had been 11 representations received objecting to the application and consultation responses from Scottish Environment Protection Agency (SEPA), The Coal Authority, Transport Scotland, Damhead and District Community Council, Council's Archaeology Adviser; Policy and Road Safety Manager; Land Resources Manager; Housing Strategy and Performance Group Manager; Head of Education and Environmental Health Manager. Details of the consultations and objections were contained within section 5 and 6 of the report. The recommendation was to grant planning permission subject to conditions and prior signing of a legal agreement within 6 months to secure developer's contributions.</p> <p>Thereafter the Chair and the Planning Manager responded to a question raised by Councillor Hackett with regards to the objections to the application received from the Community Council. The processes in place to engage with Community Councils and the public was confirmed and further discussion took place regarding the issues around Community Council boundaries.</p> |  |                |
| <b>Decision</b>   |  |                |
| The Committee agreed to grant the planning permission for the reasons as set out in the report.   |  |                |
| <b>Action</b>   |  |                |
| Head of Communities and Economy   |  |                |

| Agenda No | Report Title  | Presented by:  |
|-----------|---|----------------|
| 5.11      | Application For Planning Permission for the Erection of Screening Fencing; Erection of Shed and Re Painting of Existing Fencing (Part Retrospective) at Dalkeith Tennis Club, 5 Cemetery Road, Dalkeith (17/00747/DPP). | Peter Arnsdorf |

#### Outline of report and summary of discussion

There was submitted a report dated 27 March 2018 by the Head of Communities and Economy advising that an application had been submitted for the erection of windbreak netting on existing chain link fences; the re-painting of a corrugated steel fence; the erection of a timber storage shed; the erection of a timber lean-to store; and the installation of a gate at Dalkeith Tennis Club, 5 Cemetery Road, Dalkeith.

The Planning Manager presented the report advising the Committee that there were 6 elements to the report and these were set out in section 3 in the report. There had been one representation objecting to the application and the details were set out in section 6 of the report. The recommendation was to grant planning permission subject to conditions.

The current application had been called in to Committee for determination by Councillor Russell. The reason for the call-in was that the views of the objector warrant deliberation and debate by the Committee. Thereafter Councillor Russell advised the Committee of her visit to the site and difference from the light green and dark green netting and the difference in the weave of the netting which makes a big difference in the sunlight coming through and this was the reasons for the call-in. Councillor Russell then went on to declare an interest as previously she had no preference but after visiting the site her opinion had changed.

Councillor Hackett declared an interest in knowing both the objectors in community organisations but confirmed he was confident in having an impartial view on this application.

Councillor Cassidy also declared an interest in knowing both the objectors.

Councillor Smaill also declared that he had also met the objectors in the context of the Community Council.

Thereafter the Planning Manager responded to various questions raised by members in providing some clarity on the reasons for granting the planning permission.

Following a lengthy discussion regarding the objections outlined in the report a motion was put forward by Councillor Smaill, seconded by Councillor Russell to accept the recommendation with a condition that the netting used was the light green semi-translucent netting and as no objections were received this accordingly became the decision of the Committee.

#### Decision

The Committee approved the recommendation to grant the planning permission with the reasons as set out in the report with an amendment to the condition that that the netting specified was light green semi-translucent netting.

#### Action

Head of Communities and Economy

The meeting terminated at 4.06 pm.



---

## PENICUIK HERITAGE REGENERATION PROJECT

Report by Head of Communities and Economy

---

### 1 PURPOSE OF REPORT

- 1.1 This report seeks the Committee's approval of a Penicuik Conservation Area Management Plan incorporating the Management Plan for the Penicuik Townscape Heritage Project Area (2018).

### 2 BACKGROUND

- 2.1 At its meeting of 30 August 2016 Cabinet approved the simultaneous submission of applications to the Heritage Lottery Fund (HLF) for a Townscape Heritage grant (TH) and to Historic Environment Scotland (HES) for a Conservation Area Regeneration Scheme (CARS) grant towards a heritage regeneration scheme for Penicuik. The scheme is called the Penicuik Heritage Regeneration Project and aims to improve identified historical and cultural assets in John Street, High Street, Bridge Street, The Square and West Street, Penicuik. The works will include improvements to the facades of buildings, improvements to the street scape and a range of educational and community training events; all designed to enhance the local economy and sense of community through environmental enhancement. Similar schemes have successfully been implemented in Dalkeith and Gorebridge (2014-18).
- 2.2 The Stage 1 applications have been approved in principle by HLF and HES. The HLF awarded a grant of £114,000 towards the development of a Stage 2 submission. The Council submitted its Stage 2 application in March 2018, requesting £1.6m of funding from HLF and £980,000 from HES. Both applications will be considered in June 2018. In addition to the grant funding the Council has committed to making a contribution of £460,000 towards the project, secured from developer contributions. If these applications are successful, it is expected that the Penicuik Heritage Regeneration Project will start in August 2018. Attached at Appendix A to this report is a plan showing the buildings and public realm which will form the basis of the project.
- 2.3 A requirement for securing grant funding from HLF is that the Council adopts a Penicuik Conservation Area Management Plan incorporating the Management Plan for the Penicuik Townscape Heritage Project

Area (2018). A copy of the Management Plan is attached to this report at Appendix B.

### **3 THE PENICUIK HERITAGE REGENERATION PROJECT**

3.1 The aim of Penicuik Heritage Regeneration Project is to regenerate the historic core of Penicuik town centre by:

- Providing grant aid to repair and restore key historic buildings in the centre of the Penicuik Conservation Area;
- Providing grant aid to improve the public realm focussing on the High Street and The Square;
- Developing a training plan to encourage contractors, owners of historic buildings, schools and others to understand and appreciate the methods and techniques of traditional building construction; and
- Developing wide ranging community engagement activities to enable local people, organisations and schools to actively get involved in history and heritage projects and thereby gain a greater understanding of Penicuik's unique heritage.

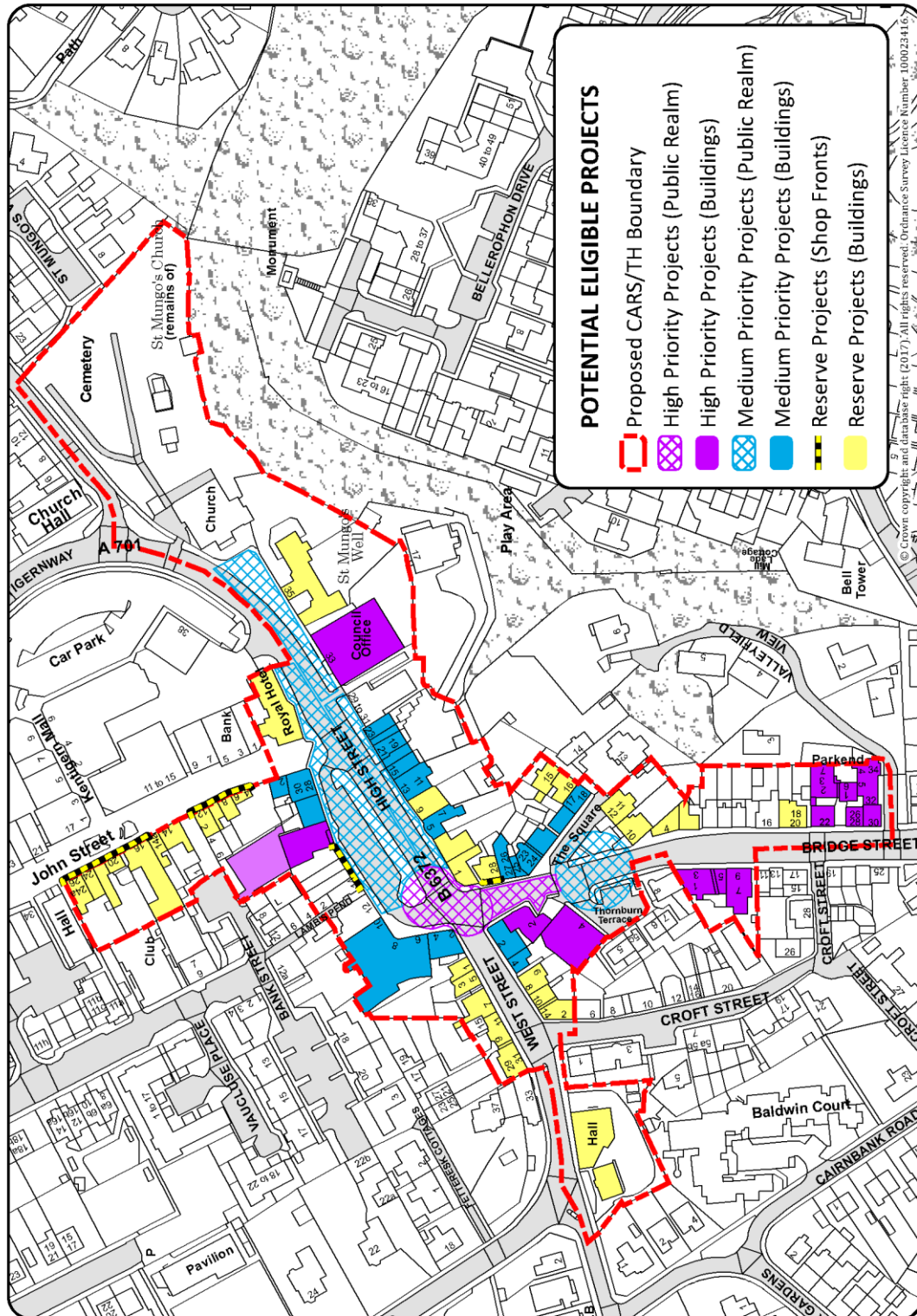
### **4 RECOMMENDATION**

4.1 The Committee is recommended to approval the Penicuik Conservation Area Management Plan incorporating the Management Plan for the Penicuik Townscape Heritage Project Area (2018).

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

**Date:** 8 May 2018  
**Contact Person:** Peter Arnsdorf, Planning Manager  
peter.arnsdorf@midlothian.gov.uk  
**Tel No:** 0131 271 3310  
**Background Papers:** The stage 1 grant application submissions

# Penicuik Heritage Regeneration Project: Buildings and Public Realm



INCORPORATING THE MANAGEMENT AND MAINTENANCE PLAN  
FOR THE PENICUIK HERITAGE REGENERATION PROJECT AREA

2018

---

## PENICUIK CONSERVATION AREA MANAGEMENT PLAN



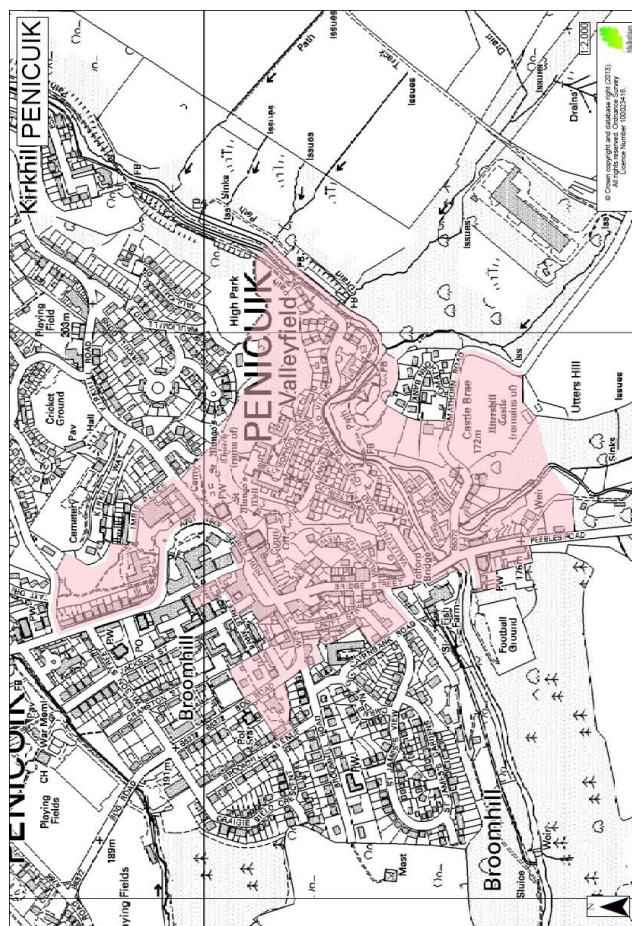
## Introduction

1. The purpose of this Conservation Area Management Plan for Penicuik Conservation Area is to set out the actions required to maintain and enhance the elements which contribute to the special architectural and historic interest of the conservation area, as defined in the Conservation Area Appraisal. Part of the Conservation Area is currently the focus of applications for a Townscape Heritage project (funded by the Heritage Lottery Fund) and a Conservation Area Regeneration Scheme (funded by Historic Environment Scotland). Decisions on these applications are expected in summer 2018. Together these schemes would form the Penicuik Heritage Regeneration project, which focuses on the High Street. A Management and Maintenance Plan for the project area has been prepared as part of the Penicuik Heritage Regeneration project, and is included in this document.

2. This Conservation Area Management Plan is intended to inform the actions of Midlothian Council and other stakeholders, including property owners and occupiers, in relation to the built environment within the Penicuik Conservation Area. It explores the issues facing the conservation area, opportunities for enhancement and building repair and maintenance.

## Key Characteristics of Penicuik Conservation Area

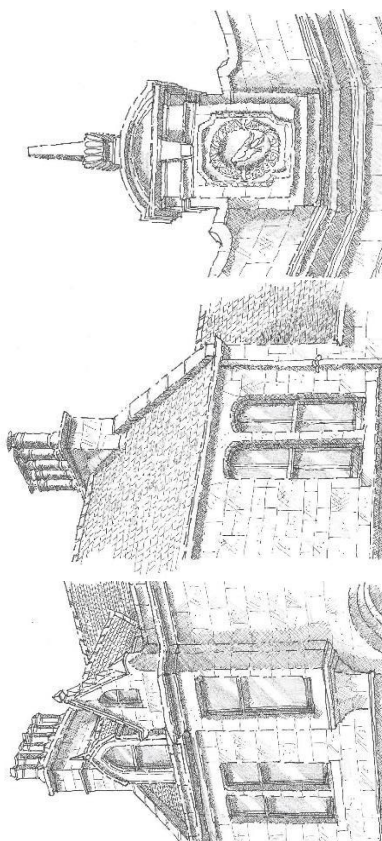
3. The Penicuik Conservation Area is focused on the town centre, extending from the junction of John Street and Eskhill to the north of the town centre, to Uttershill Castle in the south. It includes the modern development at Lower Valleyfield, which was the site of an important papermill, as well as properties on Pomathorn Road, West Street, Croft Street and Bog Road (south of the Police Station). The part of the town centre around John Street that has been modernised/redeveloped is not included in the conservation area.



4. The core of the town centre was developed in the 18<sup>th</sup> and 19<sup>th</sup> centuries on the plateau above the valley of the river North Esk, based around a town plan created by Sir James Clerk (owner of Penicuik Estate). Development was formed around the main road to the south (the current A701) which forms a dog leg through the town centre. The extract (below) of a plan from 1796 shows the core structure of the town centre that can still be seen today, particularly John Street, High Street, Croft Street and The Square.



5. There are few surviving buildings from the 18<sup>th</sup> century, with most of the historic buildings in the town centre dating from the Victorian era. A large number of stone buildings with slated roofs remain, some harled. Walls are largely local sandstone (grey, cream and yellow, with some terracotta from further afield), with square, dressed and coursed stone, often stugged, with some ashlar finishes. Doors are traditional and often panelled. Windows have a vertical proportion and are sash and case with astragals. Roofs can be prominent due to the changes in level. Both gabled and hipped roofs are evident. They are of Scots slate and chimneys are of stone and can be significant gable features. Rainwater goods in cast iron survive on many buildings.

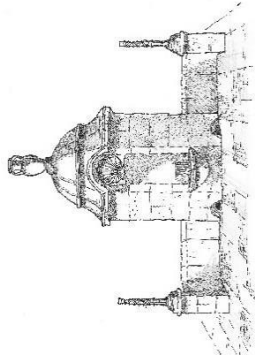


6. Many of the shopfronts on traditional buildings in Penicuik town centre have been altered with unsympathetic fascias, signage and adverse advertisements which are having an adverse impact on the character of the conservation area. Many of the shopfronts on historic buildings therefore need enhancement to bring back character and vitality to the street. Close examination of many of the shopfronts today reveal examples of historic details and decoration still present under modern plastic fascias and signage.

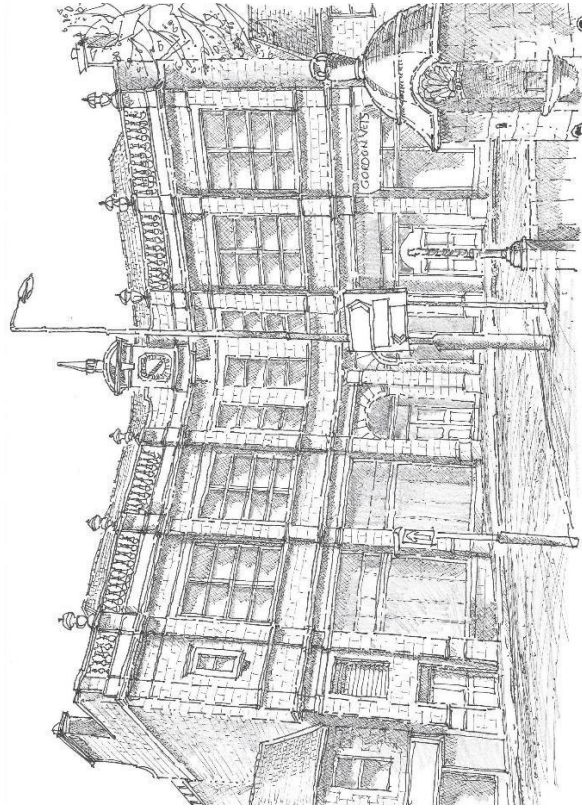
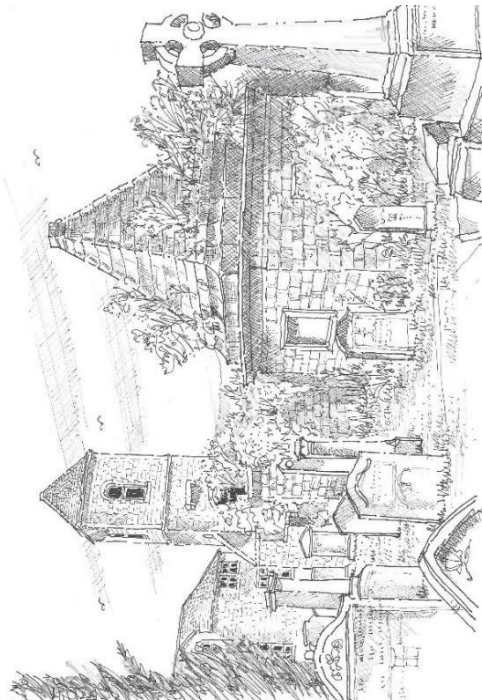


7. The layout of the streets and the topography of the town results in a sweep down the High Street turning at the bottom into The Square and Bridge Street. The building line follows the levels and results in an interesting roof line of gables, dormers, chimneys, stepping down the street with a few key buildings providing punctuations i.e. the town hall with its pink sandstone façade and cupola. St Mungo's church classical facade at the top of the High Street provides a well-proportioned pedimented entrance closing the vista with St Kentigern's church tower seen behind.

9. The old co-op buildings at 6-10 High Street provide a pleasing sweep around at the bottom of the street, taking the eye into West Street and The Square. This building has a fine bowed shop front with balustrade parapet dated 1905. In front is the restored Cowan Well (1864).

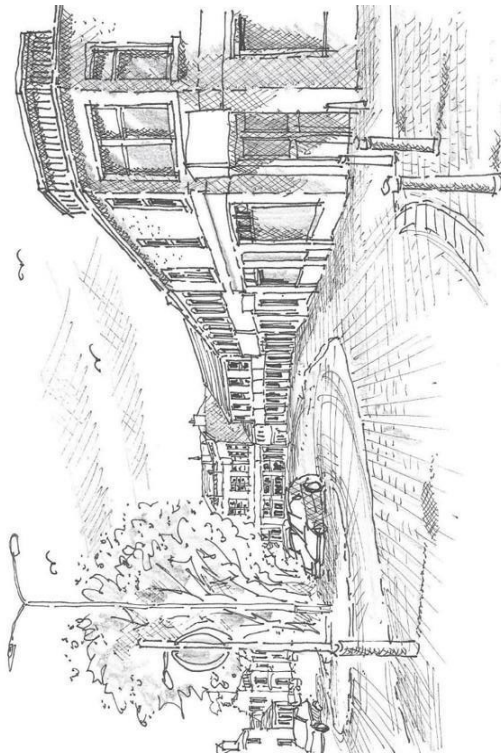


8. Behind St Mungo's church is St Kentigern's church yard which provides a quiet oasis away from the busy street with interesting features such as the Clerk Mausoleum (1684). A chunky family sepulchre in the form of a vaulted pyramid-roofed cube, its broken cherubim, ringed urn-finial lies beside. The mausoleum and St Kentigern's Church tower are in poor repair with vegetation sprouting.



10. Half way down the High Street the building line widens out with a central row of 8 lime trees and a terrace of shops behind. These buildings have been radically altered over the years and large modern fascia and shop fronts inserted at ground level which has an adverse effect on the character of the buildings. Nos 22-26 retain their original upper floors with sandstone and slate roof and arched windows with stone architraves and timber sash and case windows

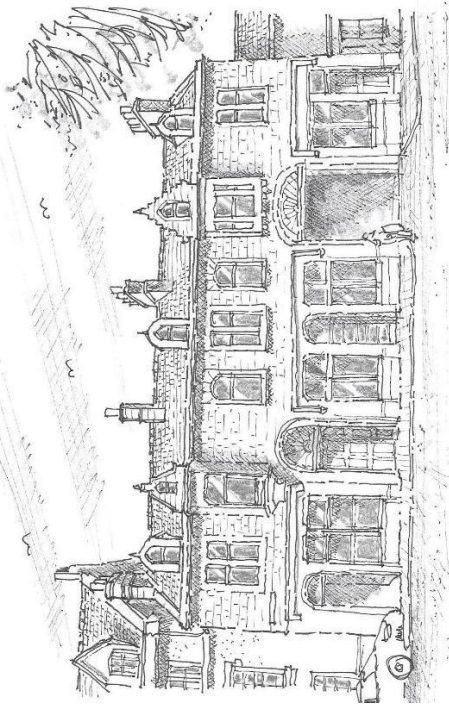
giving an indication of what this terrace used to look like. The terrace and shop fronts on the opposite side of the street are more intact in terms of historic detail and character.



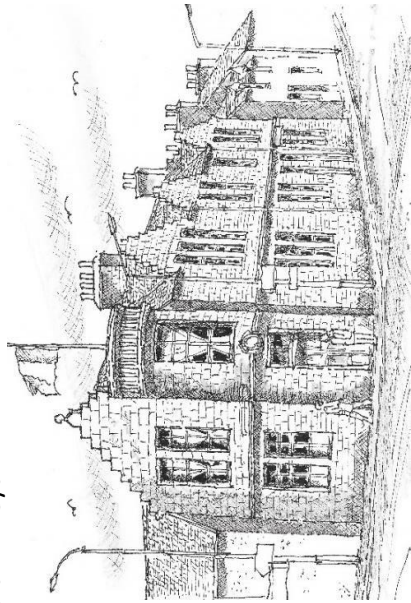
11. 15-23 High Street is an interesting 2-storey sandstone ashlar fronted terrace block with dormers and scot slate roof. It contains three well-proportioned shop fronts with stone surrounds (now painted) with stone hood moulds over and arched doorways. There are two arched entrances, one giving access to properties at the rear. This building dates from the early 19th century.

12. From here the levels drop down together with the roof line with 2-storey buildings in the terrace. The Old Crown Inn dates from late 18<sup>th</sup> century and has the remains of a traditional frontage at ground level with stone painted façade above and slate roof. The property adjoining No. 9 High Street has the original stone exposed with upper floor arched sash and case timber windows. Both properties at roof level here have stone chimneys and skew stones. No. 5-7 has a fine

original late 18<sup>th</sup> century bowed shop front window. As the street drops down and starts to turn the corner into The Square properties here are single storey with poor modern shop fronts.



13. At the junction of West Street and The Square is another key building that turns the corner, the baronial former District Council Chambers (1916) with interesting crow stepped gable and dormers, ashlar dressings around door and window openings and coursed rough sandstone with a stone string course at first floor level with scotslate roof and chimneys.





14. Continuing along West Street are terraces of traditional stone and slate buildings dating from the 18<sup>th</sup> & early/mid-19<sup>th</sup> century. Many have modern cement mortar repairs and modern window additions that adversely affect the scale and character of the buildings.

15. At the end of West Street the South Kirk Hall (formerly the South Kirk) (1843) together with the original church manse form a group that is prominent in view coming into the town centre along Bog Road and from the High Street. The church hall has lost many of its original features i.e. gables and spire but it still forms an important element in the street scene with its gothic windows and stone façade. The manse adjacent is a well proportional classical villa although modest it does add significantly to the character of the street. It is in poor repair together with its cast iron boundary railings.

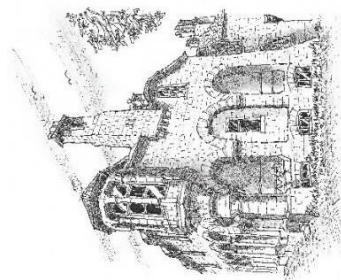


16. The Square is attractively grouped beside a small green on the left hand side, begun in the late 18<sup>th</sup> century it has been progressively aggrandised with an early 19<sup>th</sup> century townhouse with pilastered shop front at No. 24 and a somewhat strange pair at 18 (1860) with

corbelled oriels. Opposite at No. 2 - 4 is a converted corn mill (1811) and a single and 2-storey building that is a retail outlet and partly vacant. These buildings and the space between them are very rundown and present a particularly poor impression as one enters the town centre from the south. The area is in urgent need of improvement both the public realm and the buildings. The plan of 1770 shows that The Square was a cul-de-sac. The main road going south from the town at that time was Croft Street. At some point in the late 18<sup>th</sup> century/early 19<sup>th</sup> century Bridge Street was laid out and became the main road going south.

17. Bridge Street going south has a mixture of traditional buildings dating from the mid-19<sup>th</sup> century with some later 20<sup>th</sup> century buildings. Nos. 1-9 Bridge Street houses the Pen-y-coe Press on the ground floor. This is run by the Penicuik Community Development Trust as a small heritage centre and stationery/printing work. The building is 2-storey with attic dating from the late 19<sup>th</sup> century rendered with modern dormer windows and clay tile roof (usual in the street scene). Windows at first floor level also modern and not in keeping with the character of the building.

18. Of particular interest is 22-34 Bridge Street designed by the architect FT Pilkington (1860). This block is designed around a courtyard to house single women working for Charles Cowan at Valleyfield paper mill. The architect has emphasised the vertical elements, Romanesque windows project into hipped gables and huge chimneys dominate the roofline. There are some attractive carved stonework details which contrast with the rock-faced masonry.



## Issues facing the Conservation Area

19. Overall the conservation area is in reasonable condition, but there are emerging conservation and maintenance needs which need to be addressed. Many of the buildings are at a stage where work is needed now to prevent serious damage and decay. Specific problems include:

- Generally poor maintenance, for example vegetation growth allowed in gutters and downpipes;
- Inappropriate repair work, in particular cement pointing and rendering which is causing damp penetration, and replacement with inappropriate stone and stone substitutes;
- Stone erosion;
- Unsympathetic replacement of windows and doors and traditional sash and case windows requiring restoration;
- Poor shopfront fascias obscuring original detail; and
- Historic buildings in key locations in poor condition giving an adverse impression of the town centre when entering from the north and the south.

20. There is also a need to improve the quality and consistency of the public realm. Paving, street furniture and street lighting require replacement to a standard and style appropriate to the conservation area.

21. The gradual erosion of the historic environment in the conservation area through poor quality repair and maintenance will continue unless action is taken. As with many town centres, Penicuik faces challenges to remain competitive and relevant. The townscape quality of the area is a significant contributor to the success or otherwise of a town centre. Poor shop front design, unsympathetic public realm works and the under use/vacancy of some key buildings contribute to erosion of the character and quality of the townscape.

22. Overarching socio-economic factors which contribute to the need for continued action in the Conservation Area include the widespread decline of traditional town centres, general neglect and lack of investment, and incremental damaging changes. Penicuik town centre, in common with many town centres across Scotland, has suffered from changing patterns of social activity and shopping. The economic decline of the town centre has implications for the physical appearance of the conservation area due to its effect on investment in building repair and maintenance.

23. Significant levels of long term under investment, combined with a predominantly 19<sup>th</sup> Century building stock and a depressed economic setting has led to relatively high levels of deteriorating fabric, under use and vacancy. The poor condition of the building fabric due to lack of regular and appropriate maintenance and repair has been exacerbated by multiple ownership with limited or no factoring agreements (complicating implementation of repair works), lack of planned maintenance or inspection regimes and economic factors such as the high cost of repairs relative to low property values.

24. In addition to this, the limited investments in the public realm that have been achieved have not benefited the whole conservation area. The investments made in recent years around John Street have improved the streetscape and pedestrian experience, but there is still much needing improvement. The area around the High Street, West Street and The Square in particular would benefit from improvement in terms of design and use of historically appropriate materials.

25. A public realm audit was carried out as part of the development phase of the TH/CARS project (Penicuik Heritage Regeneration project). It included footway and road surfacing, materials, seating, bins, signage and information, public art, vegetation, access and movement, character, identify, ease

of use and safety. The audit results highlight issues with the public realm in the Penicuik Heritage Regeneration project area:

- narrow footpaths in some areas;
- variety of surface materials (asphalt, asphalt with granite chips, pcc paving slabs, insitu concrete/concrete screed, sandstone/yorkstone paving slabs, pcc setts);
- signage being confined to traffic road signs;
- lack of DDA compliance, such as lack of tactile paving at crossing points and kerbs not being flush with the road surface;
- wide pedestrian road crossings;
- parking on footways;
- awkward levels and steep pavement falls in some areas;
- no designated on or off road cycle route; and
- limited cycle parking.

26. Public consultation on the public realm highlighted issues with the volume of traffic, road safety, impact of HGVs on buildings and road surface, the width of the High Street causing severance and parking on the pavement near the Town Hall.

27. The purpose of a conservation area management plan is to consider how the issues facing the conservation can be addressed. In Penicuik Conservation Area, these issues are:

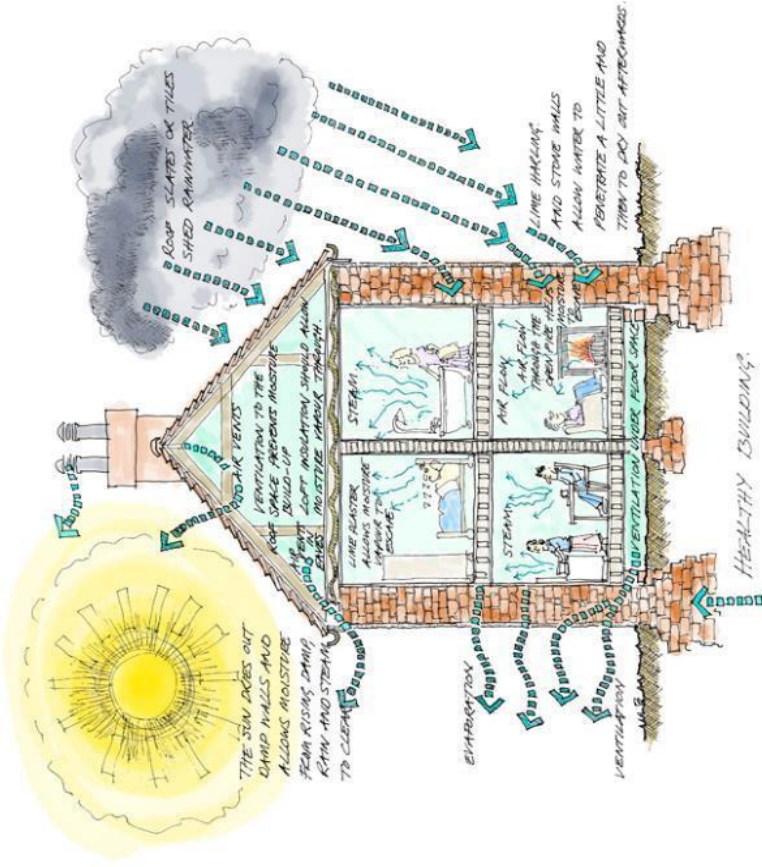
- Building repair and maintenance;
- Shopfronts in traditional buildings; and
- The public realm.



## Opportunities for Enhancement

### Building Maintenance and Repair

28. Most of the traditional buildings in Penicuik are built of relatively thick, solid stone walls, many of squared, dressed and coursed sandstone, sometimes with ashlar dressings, pointed in lime mortar. Some walls are coated in lime harling (coats of lime mortar) and were traditionally finished with several coats of limewash. This is known as mass construction and in traditional construction most walls do not have damp-proof coursing.





29. This traditional method of building enables the structure to 'breathe' as it is able to accommodate varying moisture levels i.e. rain, wind-driven rain and snow, by taking in and then evaporating moisture, thus keeping the building dry on the outside. These buildings usually have good ventilation under the floors and air movement is encouraged by open flues and through roof spaces. By keeping a building dry, the inherent insulation values of the structure can be raised significantly. Wet buildings are cold, damp and miserable; breathing buildings are comfortable and healthy to live in. It is only when we try to introduce unreasonable degrees of draught proofing and thermal insulation that the natural air movement through traditional construction can be interrupted, sometimes with serious consequences. Comfort levels can be raised with careful design and specification without upsetting the natural balance of conditions within the structure.

30. Many of the older buildings in Penicuik have been repaired over the years using modern materials such as cement mortars, gypsum plasters, modern formula paints and replacement windows, with the best of intentions. But these works have often led to problems with damp, stone decay and rot in timbers, resulting in expensive repairs. In addition, lack of proper maintenance has severely compromised both the performance

and the aesthetics of the buildings. The following sections provide information on the construction methods and materials used in Penicuik, and expectations for the repair and restoration of traditional buildings in the conservation area.



### *Roofs and Roof Coverings*

31. Pitched roofs are constructed of rafters, ceiling ties (beams), struts and wall plates. Regular inspection by property owners/tenants is recommended because if damp and unventilated conditions exist, fungal attack can result. Dry rot is particularly damaging. Insect attack can also weaken timber. If roof timbers need treating for dry rot, expert assessment is needed so that non-destructive methods and non-toxic applications can be used wherever possible. The spraying of roofs and other timbers as a precautionary measure is of little value. In many cases the prevention of further water entry and the alteration of internal conditions by increasing natural ventilation may be sufficient to halt timber decay. Specialist contractors should undertake this work.

32. Roof coverings are mainly in natural Scots slate. This gives a distinctive character and texture to roofs which no substitute such as concrete tiles can replicate. The replacement of slate with modern materials can be particularly damaging and disruptive to the appearance of the town. When repairing and reroofing, attempts should be made to source Scots slate to match the existing roof. Missing, slipped or broken slates should be promptly replaced to match the original in order to avoid roof leaks.



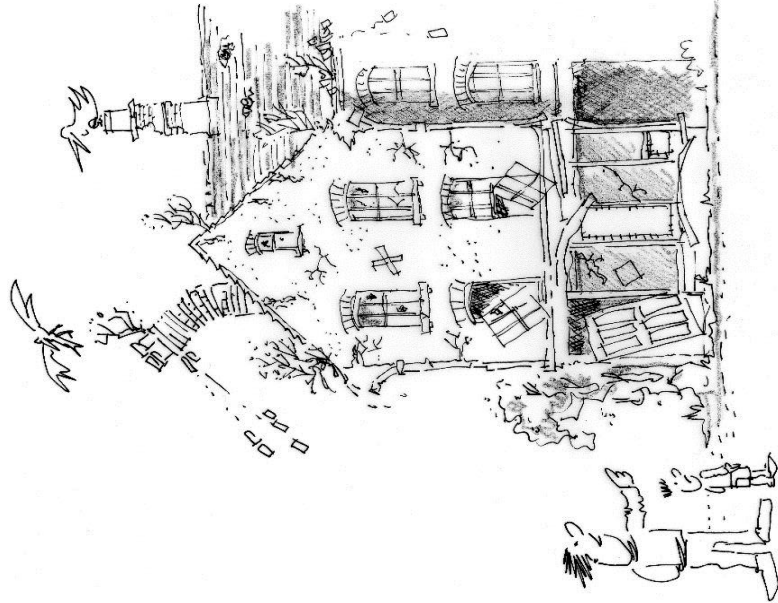
33. The detailing of roof lights, dormers, copings and flashing is equally important to the overall appearance of the roof and any change of the original materials should be avoided. Roof lights tend to be of metal fixed flush to the slope of the roof. Where replacement is deemed to be necessary conservation style rooflights should be specified. Dormer windows can vary in design, some have hipped roofs, some with crow stepped gables, some with splayed side windows. Repair and restoration should match closely the original design, materials and profiles. Lead should always be used to repair/replace dormer window flashings, roof valley gutters and skew gutters.

#### *Chimneys and Skews*

34. Chimney stacks (called 'stalks') are the parts of the building most vulnerable to weathering as they are generally exposed on all faces. Chimney stalks are usually built in fairface rubble masonry but are often rendered with cement where the stone has decayed. The junction between the chimney stalk and roof is a weak point in the roof covering and any deterioration of the lead flashings or cement fillets here should be repaired promptly.



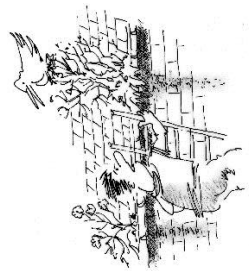
35. Chimney cans (pots) are generally made of clay and set into a stone cope on top of the chimney stalk and haunched with cement. Skews are the stone cappings to the gable walls against which the slate roof abuts. The joint is formed with a concealed lead flashing, or more commonly a cement fillet as on a chimney. Skew stones are bedded and pointed in lime mortar on the sloping top of a gable wall and may be supported at the foot by a shaped stone called a skew putt. The repair of roof leadwork such as copings, flashings, valleys and gutter linings should be designed and installed in accordance with good practice and industry recommendations.





### *Rainwater Goods*

36. Rainwater Goods include rhones (gutters), hoppers, brackets, downpipes and shoes at the foot. Cast iron was traditionally used because of its durability. If properly maintained, these elements have a long life. Cast iron must be painted to prevent deterioration and all joints between the various parts should be watertight. Rhones should be cleaned out annually to remove dirt and leaves. All cast iron should be repainted when the existing coating starts to deteriorate or at 5 yearly intervals (whichever is soonest). Replacing cast iron with other materials such as uPVC or aluminium is not acceptable.



38. Moisture in the base of walls can be reduced by lowering ground levels, improved drainage around the building, replacement of any hard cement mortar with lime mortar and, if none exists, the introduction of underfloor ventilation. Modern injected damp proof courses are of little value in traditional masonry walls of composite constructions as described above.



39. Natural stone deteriorates, albeit very slowly, and may require repair or replacement if surface decay becomes significant or structurally damaged. Repairs should only be carried out with matching stone. Patching with cement or other substitutes is not acceptable. Many buildings have been repointed with hard cement mortar which can accelerate the decay and deterioration of the stone blocks. Where repointing is to be carried out, lime mortars should always be used as this will prolong the life of the building. This work should be carried out by skilled tradespeople and should match the materials and style of the original pointing.



### *Masonry Repairs and Reporting*

37. Traditional masonry walls were built with two 'skins' of stones and the core filled with broken stone, lime mortar waste and rubble. The outer layer or face was either random rubble to take a harl or smooth lime render, or ashlar (stone blocks with a smooth or textured face, built with fine joints). The inner stone was rubble with wider joints, also built with lime mortar. Horizontal timber laths were fixed to the inner face to take two or three coats of lime plaster. The cavity between the laths and the stone face allows air movement and the evaporation of any moisture in the wall.



### *Windows and Doors*

40. Window design and proportion are a key part of a building's character. Replacement of traditional windows with new types and styles. The majority of original windows in the town were either casements or sash. If traditional windows have deteriorated the first recommended course of action is repair. This can be carried out by an experienced joiner. Repairs can be carried out more cheaply than replacement with other styles or materials, and will maintain the original character and fabric of the house. The thermal insulation value of sash windows can be improved with draught stripping or secondary glazing, which must be fitted internally.



41. If a building is listed then formal consent will be needed for any change to the appearance of the windows. For all buildings in the conservation area, replacement with windows in other materials such as aluminium or uPVC is not recommended.

42. Traditional entrance doors on houses in Penicuik are made of timber and are generally panelled. Doors at the rear are usually plainer in style. As with windows, doors can be repaired with ease by an experienced tradesperson. Original doors should be retained wherever possible, and when replacement is unavoidable, new doors should be timber and in a traditional style. Replacement solid flush or glazed doors in uPVC or aluminium are not acceptable as they can adversely affect the appearance, character and value of the building.

Original door hardware such as knobs, handles, numerals and escutcheons should be retained. If required, new fittings of the correct pattern and materials should be used.



### *External Paint Finishes & Colours*

43. Where stonework has been painted, it should be maintained and renewed at regular intervals to ensure its waterproofing attributes and appearance. Limewash or natural emulsions should be used in preference to oil-bound paints which prevent moisture evaporation from the masonry surface. Exterior woodwork such as doors, windows and fascias should be painted with microporous paint which allows controlled moisture transfer without blistering.

44. Limewashing of masonry and harl was used to enhance the weathering properties of the applied finishes. Traditionally the choice of colour was white or natural earth colours. Please consult the Planning Department at Midlothian Council for advice, but recommended colours for external use are usually:

- Previously painted walls – white, off-white or cream
- Previously painted windows and door architraves (surrounds) – muted contrasting colour or black
- Windows – white, black, dark green
- Doors – black, dark green, dark blue, red, maroon
- Rhones and rainwater pipes – black, dark green, stone colour to match masonry.

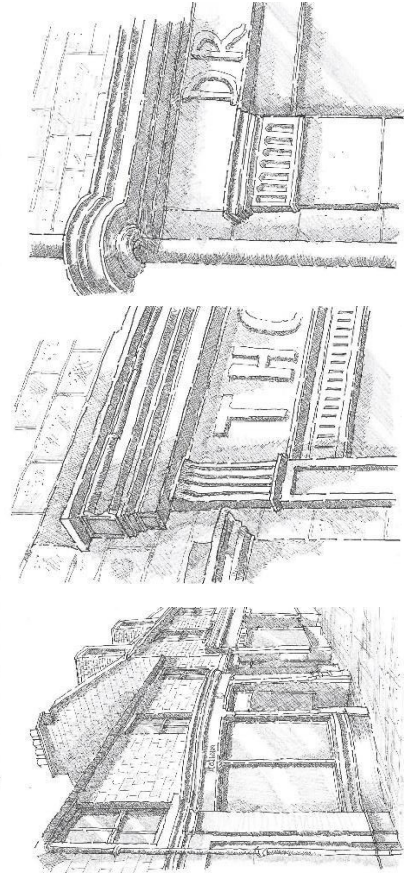
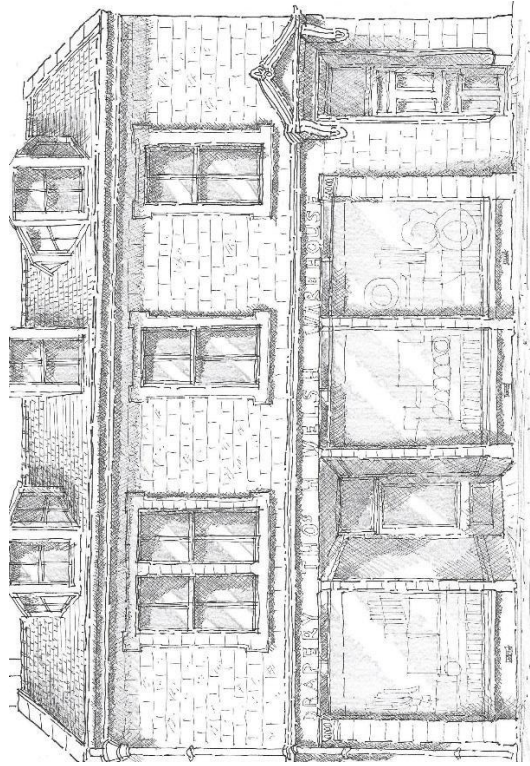
### Shopfronts

45. Good design can enhance the shop front, make a positive contribution to the street scene and improve retail operations.

Aluminium or other “standard” shopfront systems that do not respect the historic pattern of bays, recesses and the like would not normally be acceptable, particularly for listed and traditional buildings in the conservation area. To design successful new shopfronts it is necessary to take into consideration the ten principles that are set out below:

- As a basic principle, all work should preserve and enhance the character of Penicuik Conservation Area.
- The use of quality traditional materials is expected, particularly for listed and traditional buildings.
- Shopfront design should be based on research into the historic shop front relating to the specific building and be related to the composition of the building as a whole.
- Proportions should reflect the historic proportions of the building.
- Aluminium or other “standard” shopfront systems that do not respect the historic patterns of bays, recesses and the like will not normally be acceptable, particularly for listed and traditional buildings.
- Over-large fascias that are out of scale with adjoining fascias or obscure the shop window will not be acceptable.
- Fascia signs should sit nearly within the fascia clear of any framing detail, and boldly projecting box like fascia signs will not normally be acceptable.
- Where separate buildings have been amalgamated at ground floor level into one unit, the shopfronts should be kept separate with strong vertical divisions between the buildings.
- Where two or more shop units occupy the same shop frontage in the same building, the shopfront design should not fragment the frontage.

- In all cases the intention is to encourage individuality and distinctiveness in a manner that reflects the diverse range of architectural and historic qualities that exist in the town centre, yet also provide a high quality continuum of shopfront design.



**Public Realm**

47. Identified objectives for the public realm in the conservation area, in particular the Penicuik Heritage Regeneration project area, are to:

- Increase the pedestrian footway widths;
- Reduce pedestrian crossing widths;
- Improve accessibility for people of all abilities;
- Increase the extent of soft landscape and street trees;
- Maintain bus and service vehicle access; and
- Maintain car access and the current number of parking spaces.

## Summary

49. The table below summarises the actions that are planned for Penicuik Conservation Area. Most of these actions are dependent on securing the funding for the TH/CARS project. However, there are expected benefits to the wider Conservation Area from the below list of actions.

| ISSUE   | WHAT WE WILL DO ABOUT IT   |
|---|--|
| Poor quality building repair and maintenance  | <p>Training for contractors, home owners and tenants on maintenance and repair</p> <p>Enforcement of planning controls including reminders to owners/tenants about restrictions in Conservation Areas</p> <p>Publish guidance for owners and tenants on repair and maintenance of historic buildings</p> |
| Poor quality shopfronts on historic buildings | <p>Publish a shopfront design guide</p> <p>Grant fund shopfront restoration and improvement</p> <p>Training for contractors and shop owners/tenants on historic shopfront restoration and maintenance</p>  |
| Public realm                                  | <p>Undertake improvements to the public realm in the High Street &amp; The Square</p> <p>Create a 'Penicuik style' for the public realm which integrates the historic streetscape with the more modern elements.</p>   |

Provide guidance to statutory undertakers, Midlothian Council services and other relevant land owners on choice of materials etc. for the public realm and linked matters such as refuse collection

### Sources of Advice and Further Information

[www.historicenvironment.scot/advice-and-support/](http://www.historicenvironment.scot/advice-and-support/)

[www.engineshed.org](http://www.engineshed.org)

[www.scotlime.org](http://www.scotlime.org)

[www.rics.org](http://www.rics.org)

[www.heritagefundingdirectoryuk.org](http://www.heritagefundingdirectoryuk.org)



# PENICUIK CONSERVATION AREA MANAGEMENT AND MAINTENANCE PLAN

---



## CONTENTS

|  |    |
|--|----|
| 1. BACKGROUND AND OBJECTIVES                                     | 2  |
| 2. UNDERSTANDING THE HERITAGE AND CONSERVATION VALUE OF THE AREA | 4  |
| 3. CURRENT SITUATION   | 6  |
| 4. RISKS   | 10 |
| 5. MANAGEMENT AND MAINTENANCE AIMS AND OBJECTIVES                | 13 |
| 6. ACTION PLAN AND COSTS   | 14 |
| 7. MONITORING & REVIEW   | 25 |

## 1. BACKGROUND & OBJECTIVES

### BACKGROUND

- 1.1 Midlothian Council received funding for the development phase of the Penicuik Townscape Heritage (TH) scheme from the Heritage Lottery Fund (HLF) in January 2017. This grant has been used to prepare detailed proposals for building restoration, public realm improvements, creation of heritage based training opportunities and community activities within the historic core of Penicuik town centre. These proposals will be part of the second- round application to HLF which, if successful, will mean a grant of up to £1.69 million over 5 years to deliver the TH. Midlothian Council concurrently applied to Historic Environment Scotland (HES) for Conservation Area Regeneration Scheme (CARS) funding. If the application to HES is successful, a further £980,000 of grant funding will be available for the Penicuik TH/CARS Penicuik Heritage Regeneration Project.
- 1.2 One of the requirements of the second round application is a Management and Maintenance Plan for the scheme area. It is a document which sets out what maintenance and management is needed, when it will be done and who will do it. It also sets out how much it is anticipated to cost and how the work will be monitored. This Management and Maintenance Plan has been prepared by Douglas Wheeler Associates and Midlothian Council, based on the relevant guidance. Douglas Wheeler Associates is a multi-disciplinary consultancy which specialises in mixed use regeneration and heritage based regeneration, including townscape heritage projects. The broad principles of this Management & Maintenance Plan were subject to consultation at Penicuik Heritage Regeneration Project Workshop on 16<sup>th</sup> August 2017 and the Community Drop-In Event on 19<sup>th</sup> September 2017.

### PENICUIK TOWNSCAPE HERITAGE AND CONSERVATION AREA REGENERATION SCHEME

- 1.3 The Penicuik Heritage Regeneration project, which includes the TH/CARS scheme, focuses on the historic core of the town centre and aims to tackle the effects of poor maintenance and loss of architectural features, poor shopfront design, unsympathetic public realm works and under use/vacancy of key buildings. The recent formation and early successes of Penicuik First (Business Improvement District) and the community led development of the Storehouse and Pen-y-coe Press present excellent catalysts for targeted action to restore and improve the historic core of Penicuik town centre. The proposed scheme focuses on improving the quality of the historic townscape, providing a strong setting for existing and future community activities, and promoting Penicuik as a visitor destination.
- 1.4 The key elements of the project are:
- Restoring priority buildings;
  - Operating a grant scheme to support restoration of specified buildings; public realm improvements;
  - Traditional construction and maintenance skills training; and
  - A heritage education and awareness programme and working with local businesses.

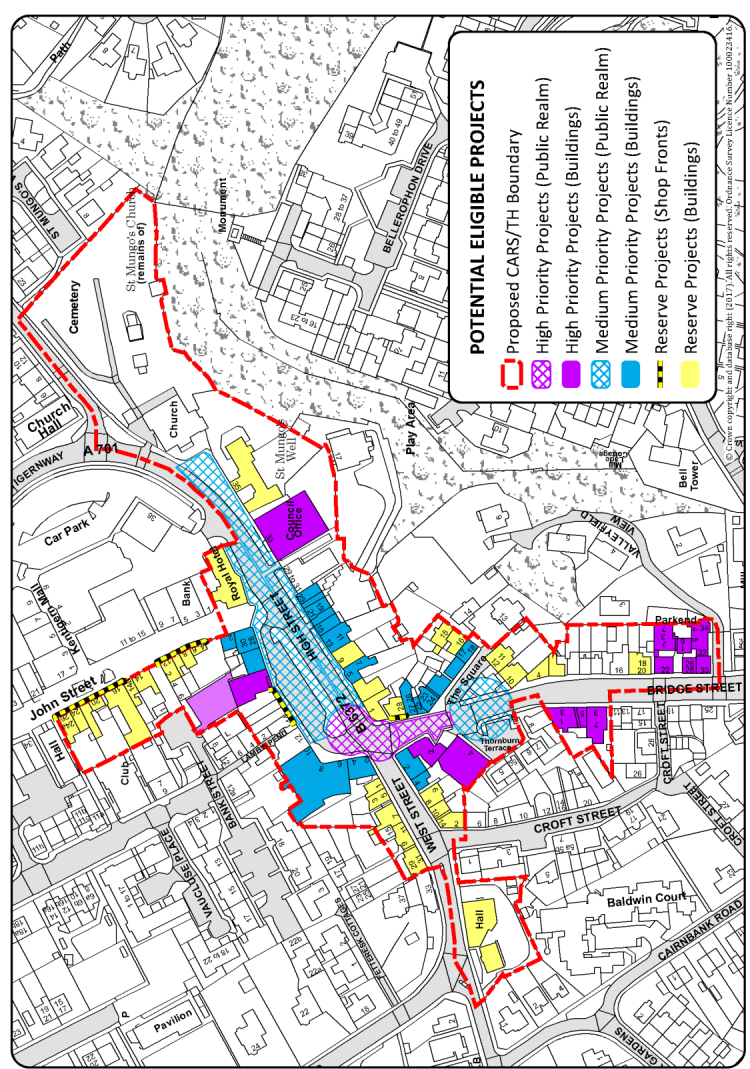
MANAGEMENT & MAINTENANCE PLAN OBJECTIVES

- 1.5 This Management & Maintenance Plan covers the part of the Penicuik area that is subject to the Penicuik TH/CARS scheme. It sets out the measures that will put into practice to make sure that the benefits of the TH/CARS scheme are maintained and was prepared to demonstrate how those projects which are funded through the TH/CARS scheme will be managed and maintained during the project period of 2018-2023 and for a 10-year period following the project's completion.
- 1.6 The plan below shows the area covered by the TH/CARS scheme. It also identifies the buildings that are being prioritised through the project (high priority and medium priority buildings), the areas of public realm that will be improved and reserve building projects.

IMPLEMENTATION

- 1.7 This Management & Maintenance Plan for the Penicuik TH/CARS scheme area forms part of the Conservation Area Management Plan for the Penicuik Conservation Area.

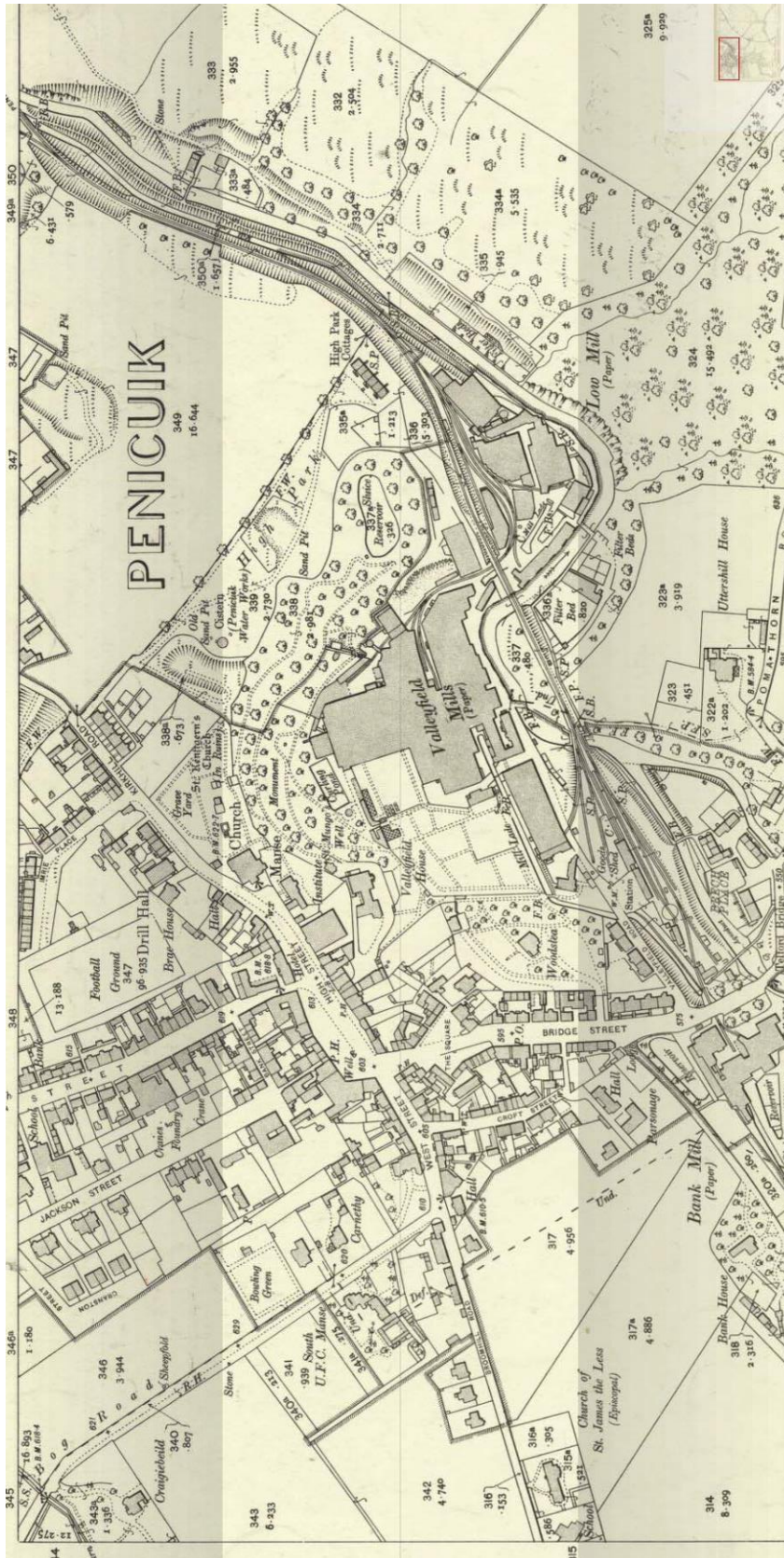
Penicuik Heritage Regeneration Project: Buildings and Public Realm (March 2018)





## 2. UNDERSTANDING THE HERITAGE & CONSERVATION VALUE OF THE AREA

- 2.1 Penicuik is Scotland's 50<sup>th</sup> largest town and currently the largest settlement in Midlothian (by population). The town as we know it was originally developed as a planned settlement in 1770 by Sir James Clerk of Penicuik, although there are records of a settlement dating back to the 13<sup>th</sup> Century. The town became a burgh in 1867.
- 2.2 The town's wealth was originally founded on mining but in 1709 Agnes Campbell successfully established papermaking in the town. By the middle of the 18<sup>th</sup> century Charles Cowan, originally a grocer in Leith, had established the Cowan Valleyfield Mills. In 1796, Cowan brought in his son, Alexander Cowan, to manage the mill. Alexander's ability and interest in the subject ensured the success of the papermaking works and established Penicuik as a major producer of various paper types. This industrial activity led to the need for homes and the hamlet of Penicuik therefore expanded as a planned town set out by Sir James Clerk, the builder and landowner of nearby Penicuik House. By 1800 the population of Penicuik was 1,700.
- 2.3 The original planned layout of the 18<sup>th</sup> Century town still exists to this day in the road and street pattern. The town was established around the main toll route running from the south and the Borders to Edinburgh via Croft Street, High Street and John Street. The route (now the A701) has been realigned at various points and now runs via Bridge Street and a bypass of the southern part of John Street. The original core of the town was the Square, originally late 18<sup>th</sup> century, but subsequently developed with Victorian buildings. The High Street forms an informal roughly rectangular space again comprising of several smaller two storey older 18<sup>th</sup> Century buildings together with larger Victorian structures often three storeys in height. This juxtaposition of scale and architectural form creates an interesting town centre with a variety of buildings of historical importance and special interest.
- 2.4 The area covered by the TH/CARS scheme forms the historic core of Penicuik and is of some considerable architectural merit; from the surviving early core around the Square to the grander High Street and John Street that developed from the early 18<sup>th</sup> Century onwards as Penicuik changed from a very modest hamlet to a major industrial planned town.
- 2.5 The map which follows shows the dense urban settlement following the main north south toll road immediately adjacent to the major employer and paper making works of the Valleyfield Mill complex. Note the virtually continuous edge of building frontages tightly packed along Bridge Street, West Street, High Street and John Street.

Late 19<sup>th</sup> Century map of Penicuik town centre



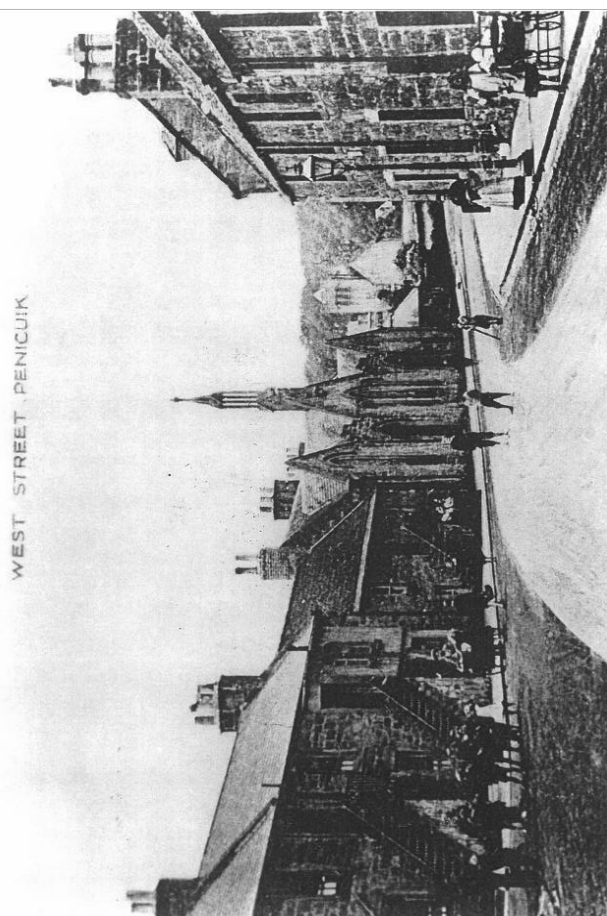
### 3. CURRENT SITUATION

- 3.1 The particular physical geography of Penicuik has led to most new residential development being located to the north of the town centre. Over time this has strengthened the influence of Edinburgh and Straiton on travel, work, shopping and leisure activities. As a result of this and societal changes in shopping and leisure patterns, Penicuik town centre has struggled to maintain a role as a retail and services destination losing out in competition with nearby out-of-centre retail locations.
- 3.2 The TH/CARS area was selected on the basis of heritage need and is focused on this historic core of the town centre. This central area was developed in the 18th and 19th century and, with its listed buildings, offers a unique insight into the history and heritage of the town. Development was formed round the main road to the south (now A701) which forms a dog leg through the town centre. Part of the original route (John Street) was pedestrianised in the 1980s, with a new road being routed in a curve to the rear of the properties. There are 20 listed buildings (1 Category A, 6 Category B and 13 Category C) within the Conservation Area, most of which are within the TH/CARS.



*Listed buildings in Penicuik Conservation Area*

- 3.3 It has been observed that some original historic features on buildings have been lost or deliberately removed such as the West Street church spire and the “witches hat” turret roof form at 30 Bridge Street (see below images). Several chimney stacks have been removed or reduced in height and inappropriately capped. More common across the TH/CARS area is the steady erosion of character caused by the substitution of modern fenestration styles and the use of UPVC windows rather than traditional timber sliding sash and case window units. In a similar manner, cast iron guttering and downpipes have been removed and substituted with modern, inferior plastic rainwater systems.



*West Street Church with Spire (now South Kirk Hall)*



*Pilkington Buildings (22-34 Bridge Street) with original turret roof*

- 3.4 There are also several examples of restorations which have introduced cement pointing to the mortar bedding of the sandstone masonry which most of the buildings are constructed from. The original construction would have used traditional slaked lime in the mortar bedding of the masonry which allows the material to breathe. Cement retains moisture and water and will cause more rapid decay of sandstone.



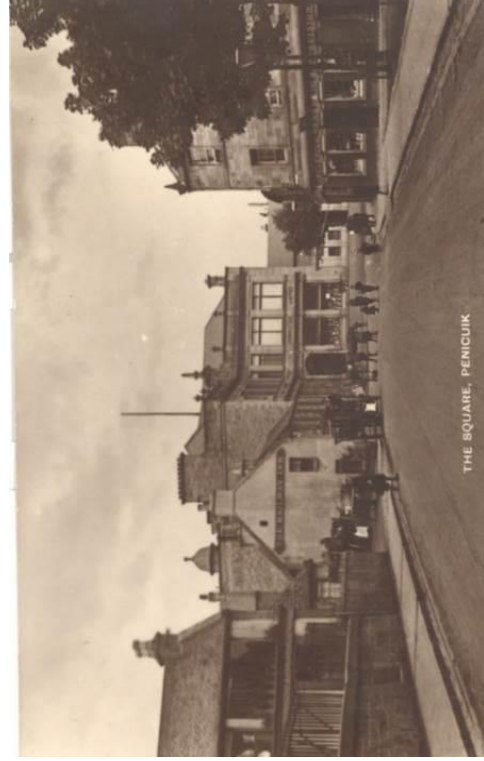


3.5

The majority of the buildings within the TH/CARS area are traditionally constructed masonry buildings using a mixture of blonde and red sandstones with natural slated roofs. Most of these buildings used squared rubble on external elevations and only a very few have harled gable or chimney stacks. The scale throughout is largely domestic with two storey dwelling but are also some larger 19th and 20th century buildings which are generally three storeys in height. The building condition survey carried out as part of the development phase of the TH/CARS project, and earlier surveys, have confirmed that there is substantial potential to renovate and repair these traditional buildings, improve the appearance of more modern buildings, secure the renovation and longer-term future of significant buildings such as the Town Hall and 2-4 The Square, and to make step change improvements to the streetscape and public realm.



*The Square, looking towards the High Street*



*The Square, looking towards the High Street*

- 3.6 This Management and Maintenance Plan explains the range of properties being targeted for repair and improvements and outline some of the aims and ambitions of the community and certain owners of key priority buildings.
- 3.7 Most buildings in the area covered by this Plan are in private ownership, with a mix of owner and tenant occupancy. Some buildings are in multiple ownership, but there is a notable lack of formal factoring arrangements in place. The Town Hall is a community property and currently the responsibility of the Council. Midlothian Council owns a limited number of other properties in the TH/CARS project area.

## 4. RISKS

- 4.1 Overall the conservation area is in an adequate condition however this is an opportune time to address emerging conservation and maintenance needs. Many of the buildings are at a stage where work is needed now to prevent more serious damage and further decay of historic fabric. There are a number of particular issues which the Penicuik Heritage Regeneration Project should address namely:
- generally poor maintenance, for example vegetation growth allowed in gutters and lack of painting of windows and barge boards;
  - evidence of inappropriate repair work, in particular cement pointing and rendering;
  - replacement of cast iron rainwater goods with plastic components;
  - evidence of considerable stone erosion in key locations;
  - unsympathetic replacement of windows and doors and restoration required for traditional windows, such as timber sash and casewindows;
  - reduction in height or complete removal of masonry chimney stacks;
  - poor shop front fascias obscuring original detail; and
  - historic buildings in key locations like 2-4 The Square in very poor condition, giving an adverse impression of the town centre when passing through from the north and the south.
- 4.2 Whilst some limited parts of the public realm have been subject to recent improvements, there is an overall need to improve the quality and consistency of the public realm throughout the TH/CARS area. Paving, street furniture and street lighting require replacement to a standard and style appropriate to the Conservation Area.
- 4.3 The detailed visual survey work undertaken as part of this TH/CARS process has identified a series of common fabric issues related to the majority of listed and non-listed domestic and commercial properties within the TH/CARS boundary area. These can be summarised as:
- the majority of the roof coverings are natural (Welsh) slate all of an age where repairs are necessary and in some cases complete replacement is required as part of more comprehensive restoration project;
  - Many of the exposed masonry chimney stacks have been repointed in cement mortar;
  - Exposed skewes and fillets at party walls / gables show open joints and cement in use at the fillets;
  - Plastic rainwater guttering unsuitable and in certain cases inadequately installed;
  - Paintwork on exposed timber doors and window in poor condition requiring repainting;
  - Masonry has been painted in some case which is not advised over natural stone;
  - Extensive use on cement pointing on sandstone properties.





*Evidence of lack of maintenance of paintwork on West Street*



*Welsh slate roof showing numerous patch repairs West Street*



*Failed cement fillet at base of gable and junction with slates*



*Truncated and cement harled masonry chimney stack*





*Cement over pointing causing rapid masonry erosion*



*Mouldings below capitals roughly cut off*



*Evidence of recent cement pointing*



*Vegetation growth*



*Water damage to masonry*

## 5. MANAGEMENT AND MAINTENANCE AIMS AND OBJECTIVES

- 5.1 The historic environment is a finite and non-renewable resource. Maintaining and enhancing the economic and social fabric of the historic environment is vital if the variety, quality and special characteristics of this resource is to be sustained for future generations. Avoiding the neglect and loss of built fabric and promoting the efficient use and reuse of land and buildings within the historic environment are the two keys ways of achieving this. It is also important to identify the best viable use for properties within the area which are compatible with the fabric, setting and character of the town centre generally and with the Conservation Area and TH/CARS area. The six high priority projects are all compatible projects with the historic context of Penicuik.
- 5.2 The main aims and objectives of the Management and Maintenance Plan are to ensure that:
- Any building, asset or project which is funded as part of the Penicuik TH/CARS project is properly managed and maintained throughout the delivery phase and for a 10-year period following completion of the scheme (as a minimum).
  - All individuals, groups and organisations who are responsible for the management and maintenance of buildings which form part of the TH/CARS scheme have been identified, contact details have been obtained; and they are aware of their obligations and have provided a plan of how they intend to achieve them.
  - The principles of regular maintenance as laid out in BS 7913 Guide to the Conservation of Historic Buildings and Short Guide 9 – Maintaining Your Home (Historic Environment Scotland) are embedded in all projects funded within the scheme and are adhered to.
  - The principles of regular maintenance as laid out in BS 7913 Guide to the Conservation of Historic Buildings and Short Guide 9 – Maintaining Your Home (Historic Environment Scotland) are disseminated to all those living and working within the Penicuik Conservation Area. This is to ensure property owners look after their built heritage effectively and trades people have the right skills and knowledge to carry out this type of work.

## 6. ACTION PLAN AND COSTS

6.1 The information in the table below relates specifically to the high priority buildings, outlining the initial work required to bring these buildings up to a suitable standard.

| Property               | Who is currently responsible for management & maintenance? | Current condition & recent investment?  | What work is required?   | What management & maintenance standards need to be met?   |
|------------------------|--|---|--|---|
| 2 -3 The Square        | Private owner  | Very poor condition with no mid floor joists and water ingress from the roof coverings. Extensive dry rot within the building.  | <p>The properties have a number of maintenance issues as identified in the Detailed Conditions Survey &amp; Building Reports which is included as part of the second-round submission. These include:</p> <p>Extensive refurbishment required including complete new internal finishes, new roof, structural repairs and timber replacement with a new mid floor, new windows and re- render exterior with new shop front and signage.</p> | <p>Historic Environment Scotland Advisory Standards of Conservation and Repair for the Historic Building Environment in Scotland.</p> <p>BS 7913 Guide to the Conservation of Historic Buildings</p> <p>Short Guide 9 – Maintaining Your Home (Historic Environment Scotland)</p> |
| 4-4A The Square<br>The | Private owner  | Very poor condition with structural cracking and movement evident in rear gable and roof covering in poor condition with side garage extension clad in white asbestos sheeting. | <p>Extensive refurbishment required including complete new roof coverings, repairs to windows and re-render exterior with the potential to remove the asbestos clad shed and build a replacement envelope.</p>   | <p>Historic Environment Scotland Advisory Standards of Conservation and Repair for the Historic Building Environment in Scotland.</p> <p>BS 7913 Guide to the Conservation of Historic Buildings</p> <p>Short Guide 9 – Maintaining Your Home (Historic Environment Scotland)</p> |

|                                    |                    |   |  |   |
|------------------------------------|--------------------|---|--|---|
| Town Hall                          | Midlothian Council | Poor condition with evidence of masonry decay.  | Extensive refurbishment required including repairs to roof coverings, masonry repairs and repointing and overhaul of existing timber sash and case windows | Historic Environment Scotland<br>Advisory Standards of Conservation and Repair for the Historic Building Environment in Scotland.<br><br>BS 7913 Guide to the Conservation of Historic Buildings<br><br>Short Guide 9 – Maintaining Your Home (Historic Environment Scotland) |
| 22 High Street<br>(The Storehouse) | Scotmid            | Adequate condition but repointing to masonry above the shop unit required including repair and overhaul to roof coverings. New shop front with reduced fascia to be designed.<br><br>Being developed by the community as a training bakery and café / shop. | Repointing to masonry above the shop unit required including repair and overhaul to roof coverings. New shop front with reduced fascia to be designed.     | Historic Environment Scotland<br>Advisory Standards of Conservation and Repair for the Historic Building Environment in Scotland.<br><br>BS 7913 Guide to the Conservation of Historic Buildings<br><br>Short Guide 9 – Maintaining Your Home (Historic Environment Scotland) |



|   |                                      |   |  |  |
|---|--------------------------------------|---|--|--|
| 1, 5 & 7 Bridge Street<br>(Pen-y-Coe Press) | Penicuik Community Development Trust | Adequate condition but repairs to external render required and overhaul and repainting of all timber components.<br><br>Being developed by the community as papermaking museum and stationary shop. | Repairs to external render required and overhaul and repainting of all timber components.  | Historic Environment Scotland Advisory Standards of Conservation and Repair for the Historic Building Environment in Scotland.<br><br>BS 7913 Guide to the Conservation of Historic Buildings<br><br>Short Guide 9 – Maintaining Your Home (Historic Environment Scotland) |
| 22 – 34 Bridge Street                       | A variety of private owners          | Adequate condition but external timber verge boards in very poor decorative conditions and some recent structural movement noted in oriel bay window masonry.                                       | Recommend complete reroofing and structural check of all exposed masonry chimney stacks. External re-pointing to masonry in selected locations to this category A listed building. | Historic Environment Scotland Advisory Standards of Conservation and Repair for the Historic Building Environment in Scotland.<br><br>BS 7913 Guide to the Conservation of Historic Buildings<br><br>Short Guide 9 – Maintaining Your Home (Historic Environment Scotland) |

## 6.2

The table below sets out the overall actions for the TH/CARS scheme area. It covers the high priority and medium priority buildings, focusing on the routine management and maintenance that these buildings will require over the long term to maximise the benefits of the TH/CARS scheme and owner investment.

|  |   |                           |                |                 |         |                |       |  |                     |                    |          |                 |               |                                    |                      |            |   |           |             |
|--|---|---------------------------|----------------|-----------------|---------|----------------|-------|--|---------------------|--------------------|----------|-----------------|---------------|------------------------------------|----------------------|------------|---|-----------|-------------|
| Buildings                                    | <p>High Priority – Town Hall (33 High Street), 22 High Street (The Storehouse), 2-4 The Square, 22-36 Bridge Street &amp; 1-7 Parkend ( the Pilkington building), and 1-7 Bridge Street (Pen-y-coe Press)</p> <p>Medium Priority – 17-26 The Square, 5-7 High Street, 11-23 High Street, 28-30 High Street &amp; 2 John Street, 2-10 High Street and 2-4 West Street.</p>   |                           |                |                 |         |                |       |  |                     |                    |          |                 |               |                                    |                      |            |   |           |             |
| What needs to be maintained & managed?       | <p>Above are the High and Medium Priority projects which have been identified as part of the Development Phase of the Scheme. Following the improvement works they will require regular maintenance which will vary from property to property but will generally include:</p> <table> <tr> <td>Rhones and downpipe check</td><td>Secret Gutters</td></tr> <tr> <td>Parapet gutters</td><td>Windows</td></tr> <tr> <td>Roof coverings</td><td>Doors</td></tr> <tr> <td>Below ground drainage to be camera inspected</td><td>Roof lights/cupolas</td></tr> <tr> <td>External paintwork</td><td>Chimneys</td></tr> <tr> <td>Sub-floor vents</td><td>Exposed stone</td></tr> <tr> <td>Lime wash/painted masonry surfaces</td><td>Masonry and pointing</td></tr> <tr> <td>Flat roofs</td><td>High-level timber bargeboards and finials</td></tr> <tr> <td>Flashings</td><td>Harl/render</td></tr> </table> | Rhones and downpipe check | Secret Gutters | Parapet gutters | Windows | Roof coverings | Doors | Below ground drainage to be camera inspected | Roof lights/cupolas | External paintwork | Chimneys | Sub-floor vents | Exposed stone | Lime wash/painted masonry surfaces | Masonry and pointing | Flat roofs | High-level timber bargeboards and finials | Flashings | Harl/render |
| Rhones and downpipe check                    | Secret Gutters  |                           |                |                 |         |                |       |  |                     |                    |          |                 |               |                                    |                      |            |   |           |             |
| Parapet gutters                              | Windows   |                           |                |                 |         |                |       |  |                     |                    |          |                 |               |                                    |                      |            |   |           |             |
| Roof coverings                               | Doors   |                           |                |                 |         |                |       |  |                     |                    |          |                 |               |                                    |                      |            |   |           |             |
| Below ground drainage to be camera inspected | Roof lights/cupolas   |                           |                |                 |         |                |       |  |                     |                    |          |                 |               |                                    |                      |            |   |           |             |
| External paintwork                           | Chimneys  |                           |                |                 |         |                |       |  |                     |                    |          |                 |               |                                    |                      |            |   |           |             |
| Sub-floor vents                              | Exposed stone   |                           |                |                 |         |                |       |  |                     |                    |          |                 |               |                                    |                      |            |   |           |             |
| Lime wash/painted masonry surfaces           | Masonry and pointing  |                           |                |                 |         |                |       |  |                     |                    |          |                 |               |                                    |                      |            |   |           |             |
| Flat roofs                                   | High-level timber bargeboards and finials   |                           |                |                 |         |                |       |  |                     |                    |          |                 |               |                                    |                      |            |   |           |             |
| Flashings                                    | Harl/render   |                           |                |                 |         |                |       |  |                     |                    |          |                 |               |                                    |                      |            |   |           |             |
| What work is involved?                       | This will involve a general inspection cycle and maintenance actions plan, (as laid out in the Management and Maintenance Plan) being put in place to ensure repairs are carried out as early intervention and on a regular basis.  |                           |                |                 |         |                |       |  |                     |                    |          |                 |               |                                    |                      |            |   |           |             |
| Who will do it?                              | The property owner or person identified as responsible for the maintenance of the asset.  |                           |                |                 |         |                |       |  |                     |                    |          |                 |               |                                    |                      |            |   |           |             |

|  |  |
|--|--|
| When?  | As part of the scheme all those properties which receive grant will need to supply a tailored Management and Maintenance Plan as a condition of the grant, which identifies the on-going maintenance requirements of the property and when inspections/ maintenance tasks have been programmed to take place. This should be in line with the recommendations laid out in: Short Guide 9 – Maintaining Your Home (Historic Environment Scotland) which will be issued to all property owners involved in the scheme. |
| How often?   | As part of the scheme all those properties which receive grant will need to supply a tailored Management and Maintenance Plan as a condition of the grant, which identifies the on-going maintenance requirements of the property and when inspections/ maintenance tasks have been programmed to take place. This shall be in line with the recommendations laid out in: Short Guide 9 – Maintaining Your Home (Historic Environment Scotland) which will be issued to all property owners involved in the scheme.  |
| What resources (money, people & skills) are required | Owners will be asked to include commentary on how they intend to resource the works going forward and how they intend to identify suitable tradespeople (this can be supported through the TH/CARS scheme in collaboration with the skills training provided).   |

## Public Realm

6.3 Investing in the public realm and appropriate interpretation to better connect the different parts of Penicuik town centre will be crucial. The principles and proposals set out for the public realm are set out in the Public Realm Strategy. Management and maintenance actions required for the proposed public realm are bulleted below – where they are applicable to Midlothian Council, all items identified in this section would only be undertaken with the prior involvement, agreement and budget approval of relevant sections of Midlothian Council. Agreements for management and maintenance should be agreed prior to construction.

- Hard Landscape Maintenance
- Tree Planting Maintenance
- Grass Maintenance, if applicable.
- Lighting Maintenance
- Drainage Maintenance
- Street Furniture
- Refuse Collection
- Deliveries
- Public Utilities and Surface Reinstatement

6.4 Management and maintenance for events and markets should also be considered if the wider scheme proposals are adopted which include a potential temporary events area on the North side of the High Street.

6.5 This will involve a cyclical inspection of each of the items at an appropriate time as set out in this maintenance schedule in addition to any as required responses to specific issues as they are. It is anticipated that the management and maintenance of the public realm will be the responsibility of the Midlothian Council. The maintenance of the public realm area will commence once the completion of the Penicuik Heritage Regeneration Project construction works are handed over to the Council once the Completion Certificate has been issued to the Main Contractor.

### Hard Landscape Maintenance Protocol

6.6 A general protocol should be established for all operations for the hard landscaping and agreed at detail design stage. The protocol should include the following.

- Throughout the maintenance of all hard landscaped areas, cognisance should be given to use of appropriate materials, products and machinery, fit for each operation within the public realm area in order to avoid damage to the new surfaces and finishes.
- Vehicle loading capacity of each area should also be considered. Only vehicles below the maximum capacity stated at detailed design stage should access areas as appropriate to avoid damage to the surfaces and structure of the hard standings.
- Vehicle and machinery used for each operation should also be appropriate to avoid, collisions with street furniture, scraping or scratching surface finishes, or compaction and destruction of soft landscaped areas.
- Consideration should also be given to pro-active protection of adjacent surfaces, walls, street furniture or artworks where large vehicles or machinery are required or are unavoidable for some management and maintenance operations.



- Such protection may be in the form of fencing or barriers to guide the vehicle away of specific vulnerable areas or the use of boards laid on some surfaces to protect vehicles from tracking across more vulnerable surfaces.
- The use of a banksman is also recommended to protect the public as well as the environment.
- Traffic management may be required for some maintenance.
- Pedestrian management will be required for most operations in order to protect the public from hazards.

6.7 The proposals include resurfacing of the pavements in a durable and hard wearing natural stone surface but, like all other surfaces, may become stained. Regular maintenance and good cleaning practices will enhance and retain the appearance of the paving in the longterm.

| ITEM  | OPERATION                                    | FREQUENCY                                    |
|---|--|--|
| General hard landscaping including pavements and roads. | Sweeping and tidying of paved surfaces       | 1 per week                                   |
|   | Cleaning of paved surfaces                   | 3 per year or to suit seasonal requirements. |
|   | Removal of graffiti                          | As required and as soon as possible          |
|   | Inspection & review of cleanliness or damage | 2 per month                                  |
|   | Removal of chewing gum from footways         | 3 per year                                   |
|   | Specific removal of spillages                | As required and as soon as possible          |
| Asphalt road surfacing                                  | Winter Maintenance                           | As required                                  |
|   | Roads swept with road brush.                 | 1 per week                                   |

#### Tree Planting Maintenance

6.8 The maintenance of any soft landscaping by Midlothian Council should commence one year after Practical Completion of the works has been achieved by the Contractor or as otherwise set out in the terms of the contract.

6.9 The recommended maintenance operations for the tree planting are outlined in the table below. The frequency of carrying out the operations should be monitored and adjusted accordingly to suit seasonal demands and the growth of the tree.

| ITEM  | OPERATION  | FREQUENCY                     | TIMING        | NOTES  |
|-------|--|-------------------------------|---------------|--|
| Trees | Firming  | 1 per month until established |               |  |
|       | Pruning  | 1 per year if required        | April to July | To produce a balanced, attractive tree and remove damaged, diseased shoots or weak growth. |
|       | Fertiliser application                                     | 1 per year                    | Spring        |  |
|       | Watering   | 1 per month                   |               |  |
|       | Top up bark mulch  | 1 per year                    |               |  |
|       | Hand weeding & fork over                                   | 2 per month                   |               |  |
|       | Inspection & reports of underground guying, root rain etc. | 3 per year                    |               |  |
|       | Firming  | 1 per month                   |               |  |

Grass Maintenance – The Square

| ITEM                  | OPERATION                | FREQUENCY   | TIMING                    | NOTES |
|-----------------------|--------------------------|-------------|---------------------------|-------|
| Turfed/ grassed areas | Grass cutting & trimming | 12 per year | April to October          |       |
|                       | Weeding and herbicide    | 2 per year  | April to October          |       |
|                       | Fertiliser               | 1 per year  | Spring/summer             |       |
|                       | Watering                 | As required | During periods of drought |       |

|  |   |             |   |   |
|--|---|-------------|---|---|
|  | Repairs to damaged or worn areas          | As required | Replace damaged areas by carefully cutting out damaged patch and replace with |   |
|  | Inspections to check for pernicious weeds |             | As required but in particular from spring until late                          | Any occurrence of pernicious weeds should be treated as soon as possible. |

6.10 The frequency of carrying out the operations should be monitored and adjusted accordingly to suit seasonal demands.

#### Lighting Maintenance

6.11 The lighting maintenance is likely to include:

- Street lighting columns or building mounted street lights.
- Potential accent lighting to agreed features of significance

6.12 The current lighting maintenance is carried out by Midlothian Council which is likely to include burn to extinction with a cyclical planned maintenance inspection.

6.13 Access to lighting columns and in any ground units, for maintenance operations, will be on the areas of road carriageway and pavement and should be carefully considered with regards to the various pavements and the capacity to accommodate vehicle loading. Where vehicle access is required associated with this maintenance, the works should be planned to ensure that all street furniture and soft landscaping is suitably protected from damage. Such areas should be protected from:

- Vehicle collision with street furniture
- Vehicle overrun on areas unsuitable for vehicle access,

6.14 Protection should be in the form of appropriate banks men, barrier/ protective fencing, where appropriate.

#### Drainage Maintenance

6.15 The drainage system is likely to consist of standard road gullies and potentially some footpath drainage with footpath gullies or slot drains if finished design levels require. The gullies and drainage system should be cleaned out regularly to ensure that the system is on working order and avoid flooding. The following schedule is recommended to deliver an improved standard.

|                     |                                     |
|---------------------|-------------------------------------|
| Gully types         | Frequency of maintenance operations |
| Standard road gully | 4 visits per 2 year cycle           |
| Slot Drains         | 4 visits per 2 year cycle           |

- 6.16 Appropriate times of year for cleaning of the drainage system would be after leaf fall in the autumn and after the period of winter gritting. Throughout cleaning and maintenance operations associated with the street, all drains should be protected to avoid debris entering the system.

#### Street Furniture

- 6.17 The new street furniture throughout the works is likely to consist of: Seating, bollards, cycle racks, signage and litter bins. On completion of the implementation phase of the works all as-built drawings and the O + M manual prepared by the main contractor will be retained and contain detailed information on the list of suppliers and manufacturers for each of the items. Each of the items will require general cleaning to ensure the aesthetic appearance is retained. The suggested method and frequency for cleaning each of the components is set out below.

| ITEM/ MATERIAL                        | METHOD OF CLEANING   | FREQUENCY       |
|---------------------------------------|--|-----------------|
| Bollards and cycle racks and seating. | Hose down and clean with a mild detergent and warm soapy water. No abrasive materials should be used.  | 3 or 4 per year |
| Litter bins                           | See cleaning regime above.<br>Check all parts and fixings are working and check for signs of damage. In addition the bins can be cleaned with proprietary wipes as supplied by the manufacturer. | 3 or 4 per year |
| Signage                               | Hose down and clean with a mild detergent and warm soapy water. No abrasive materials should be used.  | 3 or 4 per year |

- 6.18 From time to time the street furniture may become damaged due to vandalism or vehicle collision. The following approach to addressing this issue is recommended. Additional, spare items of street furniture should be ordered at the procurement and construction stage. Spare items should be stored by Midlothian Council until required. In the event that an item of street furniture becomes damaged, it can be replaced as soon as possible with the spare items. This method avoids any lengthy wait for the supply and delivery of replacement furniture items. It also avoids damaged pieces of furniture being left in-situ which may prove a health and safety hazard. Once the damaged item has been removed and replaced it can be either, repaired and stored off site for any future use or the spare piece replaced, if necessary.



### Refuse Collection

- 6.19 General refuse collection arrangements from businesses and premises throughout the town centre are unlikely to be amended as part of the public realm works. General Litter is collected within the litter bins, provided as part of the works. Bins should be emptied an appropriate number of times per week to suit seasonal requirements.

### Deliveries

- 6.20 On completion of the public realm works, delivery vehicles are expected to use to the designated loading bays provided. Throughout the remainder of the area, delivery vehicles are expected to use the road carriageway or parking bays, where available.

### Public Utilities and Surface Reinstatement

- 6.21 The following sets out a summary of the specific protocol and requirements for any contractor or Midlothian Council carrying out any reinstatement works. Reference should also be made to the completed Operation and Maintenance manual and Last Construction Issue drawings associated with the implementation works to ensure that the full suite of documents setting out the requirements and specification for surface reinstatement in each scenario across the site is understood.

### Public Utilities and Surface Reinstatement Protocol:

- 6.22 Prior to the commencement of any works to be undertaken by or on behalf of a utilities company, the area to be disturbed is to be inspected by the utilities company or the main contractor responsible together with a suitable representative from Midlothian Council. The representatives from Midlothian Council are to be familiar with the design intention for each area to ensure the quality is met at reinstatement.
- 6.23 The exact extent of area to be disturbed is to be agreed and its condition assessed. The condition should be photographed to create a visual condition survey. Contractors are to be reminded that they must reinstate the surfacing to a high standard on completion. Therefore in areas where natural stone paving are required to be lifted, they should be lifted carefully with a view to re-using them, where possible. Any items within or adjacent to the zone of work which require protection should be protected. The contractor should submit a method statement to Midlothian Council for approval outlining how the items will be protected prior to commencing work. Midlothian Council are to ensure that the contractors are furnished with a copy of the specification and detail drawings from the Operations and Maintenance Manual to ensure that the reinstatement is a like for like standard and a high-quality finish is achieved.
- 6.24 Materials for reinstatement must match that already installed. Contractors should be requested to provide written confirmation that it matches the materials required and submit samples for approval by Midlothian Council.
- 6.25 Regarding the quality of the reinstatement of surfacing, attention should be drawn to the detailed drawings and specifications used at implementation stage.

## 7. MONITORING & REVIEW

- 7.1 Penicuik TH/CARS will be managed in accordance with Midlothian Council policies and procedures, Heritage Lottery Fund and Historic Environment Scotland grant conditions. The Project Team will have overall responsibility for the day to day operation and management of the project and will monitor and review project progress. The Project Team will be responsible for making decisions about grant applications for Priority Projects, grant applications for reserve projects, public realm improvements, training plan and community engagement projects.

### RISKS FACING THE PROJECT AFTER IT HAS BEEN COMPLETED

| Risk   | Likelihood | Impact | Mitigation   | Who will Lead this |
|--|------------|--------|--|--------------------|
| Standard of maintenance drops and/or is inappropriate                    | Medium     | Medium | Private/public property and public realm recipients receive summary of this maintenance guide.<br>Reviewed by Midlothian Council   | MC                 |
| Standard of work in the Conservation Area                                | Medium     | Medium | Enforcement Officer monitors and intervenes if a breach of planning control is identified. Continuing training and awareness. Project manager proactively advising property owners/occupiers.  | MC/ Partners       |
| Unauthorised changes to buildings  | Medium     | High   | Enforcement Officer monitors and intervenes if a breach of planning control is identified. Continuing training and awareness.  | MC/ Partners       |
| Inappropriate Development  | Low        | Medium | Appropriate planning policy guidance adopted. Officer and Member training. Improved Member training. Improved interdepartmental working  | MC                 |
| Loss of heritage awareness in community                                  | Medium     | High   | Penicuik Development Trust & Penicuik Historical Society continue to maintain a public profile.<br>Heritage education continues in schools (BCHS/PHS 7 feeder primaries). Traditional skills courses continue at College   | MC/ Partners       |
| Lack of monitoring of inappropriate development in the Conservation Area | Medium     | High   | Internal training and communication on the importance of the investment made in Penicuik. Improve interdepartmental & partner working in MC. Periodic professional development workshops on built heritage best practice. Continuous evaluation of the CAMP to ensure it is fit for purpose. | MC                 |

|                                     |        |        |  |    |
|-------------------------------------|--------|--------|--|----|
| CAMP is not effectively implemented | Medium | High   | Enforcement Officer monitors and intervenes. Continuous training and awareness. Continuous evaluation of the CAMP to ensure it is fit for purpose. | MC |
| Sale of key buildings               | Medium | Medium | Standard Security in place for grants over £25,000.  | MC |

## MONITORING

- 7.2 As a 'baseline' for the review process in terms of improvements in the Management and Maintenance of the Penicuik Conservation Area following completion of the Penicuik Heritage Regeneration Project, A-S:L (Conservation Architect) has carried out a detailed condition survey as part of the Development Phase. This condition survey will be reviewed following; completion of the project, 5 years following completion of the project and 10 years following completion of the project. Furthermore, the Penicuik Conservation Area Character Appraisal will be reviewed on a 5-yearly basis, as resources allow, and updated accordingly. Therefore, the Management and Maintenance Plan monitoring and review milestones will be:
- End of Development phase;
  - Mid-point of the Delivery phase;
  - Project completion.
- 7.3 The project information and overall progress reports will be collated at the end of each financial year and the Management and Maintenance Plan updated accordingly. This document should be read in conjunction with the: Community Vision, Condition Survey, Public Realm Audit & Strategy, Activity Plan, Penicuik Conservation Area Management Plan and Penicuik Conservation Area Character Appraisal.
- 7.4 The requirement to supply information in terms of management and maintenance will be a condition of all grant applications to the Penicuik TH/CARS scheme. In terms of those assets produced as part of the Activity Plan, the management and maintenance of those items will be developed in consultation with those parties working with Midlothian Council to deliver the projects as identified in the Activity Plan







---

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

Report by Head of Communities and Economy

---

### **1 PURPOSE OF REPORT**

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

### **2 BACKGROUND**

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

### **3 DEVELOPMENT PLAN UPDATE**

- 3.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan June 2013 (SDP1) and the Midlothian Local Development Plan 2017 (MLDP). The MLDP was adopted by the Council at its meeting of 7 November 2017. The proposed Strategic Development Plan (SDP2) is currently subject to examination by Scottish Government Reporters. The Reporter's findings were originally scheduled to be published in April 2018,

however to date they have not been published and are now anticipated in June 2018.

#### **4 RECOMMENDATION**

- 4.1 The Committee is recommended to note the major planning application proposals which are likely to be considered by the Committee in 2018 and the updates for each of the applications.

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

**Date:** 8 May 2018  
**Contact Person:** Peter Arnsdorf, Planning Manager  
peter.arnsdorf@midlothian.gov.uk  
**Tel No:** 0131 271 3310

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

## APPENDIX A

### MAJOR APPLICATIONS CURRENTLY BEING ASSESSED

| Ref          | Location   | Proposal   | Expected date of reporting to Committee          | Comment  |
|--------------|--|--|--|--|
| 16/00893/PPP | Land at Salter's Park, Dalkeith                              | Application for Planning Permission in Principle for residential development, employment uses and associated works                   | Being held in abeyance at the applicants request | Pre-Application Consultation (14/00833/PAC) carried out by the applicants in November 2014 - January 2015.<br><br>The applicant is currently reviewing their position following advice from officers that the development is contrary to the development plan.                                 |
| 17/00408/DPP | Land at Old Craighall Road, Millerhill                       | Erection of 125 residential units; formation of access roads, SUDs features and associated works                                     | August 2018                                      | Pre-Application Consultation (14/00415/PAC) carried out by the applicants in June - September 2014.  |
| 17/00409/DPP | Land at Wellington Farm, Old Craighall Road, Millerhill      | Erection of 116 residential units; formation of access roads, SUDs features and associated works                                     | August 2018                                      | Pre-Application Consultation (14/00415/PAC) carried out by the applicants in June - September 2014.  |
| 17/00435/DPP | Land at Newbyres, River Gore Road, Gorebridge                | Erection of 125 residential units; formation of access roads, SUDS features and associated works                                     | June 2018  | Pre-Application Consultation (13/00609/PAC) carried out by the applicants in August - November 2013.<br><br>The applicant is currently reviewing their layout following advice from officers that the layout and form of the development is unacceptable and contrary to the development plan. |
| 17/00980/PPP | Land adjacent former Rosslynlee Hospital, Roslin (Site AHs1) | Residential development and associated works and ancillary commercial use  | August 2018                                      | Pre-Application Consultation (16/00266/PAC) carried out by the applicants in April - June 2016<br><br>The site is identified as an additional housing opportunity in the adopted MLDP with an indicative 120 – 300 units.  |
| 17/01001/DPP | Land at the former Rosslynlee Hospital, Roslin (Site AHs1)   | Alterations and conversion of former hospital and buildings to form 71 dwellings, erection of 30 dwellinghouses and associated works | August 2018                                      | Pre-Application Consultation (16/00267/PAC) carried out by the applicants in April - June 2016<br><br>The site is identified as an additional housing opportunity in the adopted MLDP with an indicative 120 – 300 units.  |

|  |  |  |              |   |
|--|--|--|--------------|---|
| 18/00081/DPP                                     | Land south west of Upper Dalhousie Sand Quarry, Rosewell | Extension to existing sand quarry  | June 2018    | Pre-Application Consultation (17/00565/PAC) carried out by the applicants in July - October 2017.   |
| 18/00086/S42                                     | Millerhill, Marshalling Yard, Whitehill Road, Millerhill | Section 42 application to amend condition 2 (landscaping) of planning permission 15/00884/DPP  | August 2018  | <p>Section 42 applications do not require to go through the Pre-Application Consultation process.</p> <p>This application is seeking to change the landscaping requirements set out by planning condition associated with the application (15/00884/DPP) to form a train cleaning and stabling depot.</p> |
| 18/00099/DPP<br><i>New addition to the table</i> | Land at Gore Avenue and Newbyres Crescent, Gorebridge    | Erection of 46 flatted dwellings; 17 dwellinghouses and 12 extra care units; formation of access roads and car parking; SUDS features and associated works | August 2018  | Pre-Application Consultation (17/00913/PAC) carried out by the applicants in November 2017 – February 2018.   |
| 18/00155/DPP<br><i>New addition to the table</i> | Shawfair Site F Monktonhall Colliery Road, Dalkeith      | Use of land for the storage of soil (top soil and sub soil) for a temporary period of 5 years.   | October 2018 | Pre-Application Consultation (17/00859/PAC) carried out by the applicants in October 2017 – January 2018.   |



## APPENDIX B

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

| Ref          | Location  | Proposal   | Date of PAC submission | Earliest date for receipt of planning application and current position   |
|--------------|---|--|------------------------|--|
| 15/00774/PAC | Site Hs14, Rosewell North, Rosewell                                       | Residential development<br><br>The site is identified for an indicative 60 residential units.  | 22 September 2015      | 15/12/15 - no application yet received. A pre-application report was reported to the November 2015 meeting of the Committee. |
| 16/00830/PAC | Land east of junction with Greenhall Road Barleyknowe Road Gorebridge     | Residential development<br><br>This site is not allocated for housing                          | 24 November 2016       | 10/02/17 - no application yet received. A pre-application report was reported to the January 2017 meeting of the Committee.  |
| 17/00296/PAC | Land to the east of Lawfield Road and to the north of Ash Grove, Mayfield | Residential development<br><br>This site is not allocated for housing                          | 19 April 2017          | 06/07/17 - no application yet received. A pre-application report was reported to the June 2017 meeting of the Committee.     |
| 17/00367/PAC | Site Hs12 Hopefield Farm 2 Bonnyrigg                                      | Residential development<br><br>The site is identified for an indicative 375 residential units. | 9 May 2017             | 02/08/17 - no application yet received. A pre-application report was reported to the August 2017 meeting of the Committee.   |
| 17/00402/PAC | Site Hs11 Dalhousie South Bonnyrigg                                       | Residential development<br><br>The site is identified for an indicative 360 residential units. | 19 May 2017            | 12/08/17 - no application yet received. A pre-application report was reported to the August 2017 meeting of the Committee.   |
| 17/00606/PAC | Land south east of Auchendinny, The Brae, Auchendinny (Site Hs20)         | Residential development<br><br>The site is identified for an indicative 350 residential units. | 27 July 2017           | 20/10/17 - no application yet received. A pre-application report was reported to the November 2017 meeting of the Committee. |
| 17/00663/PAC | Land bounded by A7, Stobhill Road and Pentland Avenue, Gorebridge         | Mixed use development comprising residential and commercial land uses                          | 16 August 2017         | 09/11/17 - no application yet received. A pre-application report was reported to the October 2017 meeting of the Committee.  |

|  |  |   |                   |  |
|--|--|---|-------------------|--|
| 17/00670/PAC   | Land to the north of Hardengreen House, Dalkeith                       | Mixed use development including Class 1 (Shops); Class 2 (Financial, Professional and Other Services); Class 3 (Food and Drink); Class 4 (Business); Class 9 (Houses); and Class 10 (Non-Residential Institutions). | 22 August 2017    | 15/11/17 - no application yet received. A pre-application report was reported to the October 2017 meeting of the Committee.  |
| 17/00693/PAC   | Land 65M west of Rosslyn Bowling Club, Main Street, Roslin (Site Hs19) | Residential development<br><br>The site forms part of (approximately 25%) a larger development site identified for an indicative 260 residential units.   | 30 August 2017    | 23/11/17 - no application yet received. A pre-application report was reported to the November 2017 meeting of the Committee. |
| 17/00721/PAC   | Land west of Burnbrae Terrace Bonnyrigg                                | Mixed use development including offices, stores, garage and workshops, enterprise business units, parking and ancillary facilities  | 12 September 2017 | 06/12/17 - no application yet received. A pre-application report was reported to the January 2018 meeting of the Committee.  |
| 18/00102/PAC   | Land south west of Newbattle Community High School, Newtongrange       | Residential development<br><br>The applicant is considering an indicative 79 residential units.   | 9 February 2018   | 05/05/18 - A pre-application report was reported to the April 2018 meeting of the Committee.                                 |
| 18/00139/PAC<br><br><i>New addition to the table</i> | Land north west of Moat View, Roslin                                   | Residential development   | 28 February 2018  | 24/05/2018 - A pre-application report is reported to this meeting of the Committee   |



---

## APPEALS AND LOCAL REVIEW BODY DECISIONS

Report by Head of Communities and Economy

---

### 1 PURPOSE OF REPORT

- 1.1 This report informs the Committee of notices of reviews determined by the Local Review Body (LRB) at its meeting in April 2018; and two appeal decisions received from Scottish Ministers.

### 2 BACKGROUND

- 2.1 The Council's LRB considers reviews requested by applicants for planning permission, who wish to challenge the decision of planning officers acting under delegated powers to refuse the application or to impose conditions on a grant of planning permission.
- 2.2 The decision of the LRB on any review is final, and can only be challenged through the Courts on procedural grounds.
- 2.3 Decisions of the LRB are reported for information to this Committee.
- 2.4 In addition, this report includes two decisions on appeal which have been considered by Scottish Ministers.

### 3 PREVIOUS REVIEWS DETERMINED BY THE LRB

- 3.1 At its meeting on 10 April 2018 the LRB made the following decisions:

|   | Application Reference | Site Address                     | Proposed Development  | LRB Decision   |
|---|-----------------------|----------------------------------|---|--|
| 1 | 17/00734/DPP          | 3 Bankmill View,<br>Penicuik     | Installation of replacement windows – review was against a condition restricting the use of uPVC at the front of the house. | Permission granted, but review against conditions dismissed at LRB meeting of 10.04.2018 |
| 2 | 17/00801/DPP          | 10 Broomhill Avenue,<br>Penicuik | Extension to dwellinghouse  | Permission granted at LRB meeting of 10.04.2018  |

|          | <b>Application Reference</b> | <b>Site Address</b>                          | <b>Proposed Development</b>  | <b>LRB Decision</b>                             |
|----------|------------------------------|--|--|---|
| <b>3</b> | 17/00828/DPP                 | 75 Castlclaw Crescent, Bilston               | Extension to dwellinghouse   | Permission refused at LRB meeting of 10.04.2018 |
| <b>4</b> | 17/00872/PPP                 | Land north west of Braidwood House, Penicuik | Planning permission in principle for the erection of a dwellinghouse | Permission granted at LRB meeting of 10.04.2018 |

## **4 APPEAL DECISIONS**

- 4.1 Two appeal decisions have been received from Scottish Ministers regarding two enforcement notices issued at land to the rear of 180 Main Street, Pathhead. Following the Local Review Body's decision to refuse retrospective planning permission for the erection of a building at its meeting of October 2017, two enforcement notices were issued on the owner of the land. The notices required:
1. The demolition of the unauthorised building on the site and the removal of the resulting material; and
  2. The cessation of the use of the land for storage purposes and the removal of the unauthorised vehicles, trailers, caravans and other ancillary items and parts thereof associated with the vehicles, building materials including stone, bricks and timber, building equipment including portable building, scaffold, ladders, tarpaulin, fencing and other ancillary building materials from the land.
- 4.2 The appeal decisions upheld the enforcement notices, a copy of the decisions are attached to this report. The recipient (landowner) has until 30 June 2018 to comply with the notices.

## **5 RECOMMENDATION**

- 5.1 The Committee is recommended to note the decisions made by the Local Review Body at its meeting in April 2018 and the appeal decisions by Scottish Ministers.

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

**Date:** 8 May 2018  
**Contact Person:** Peter Arnsdorf, Planning Manager  
 peter.arnsdorf@midlothian.gov.uk  
**Tel No:** 0131 271 3310  
**Background Papers:** LRB procedures agreed on the 13 June 2017.





---

Decision by Richard Hickman, a Reporter appointed by the Scottish Ministers

- Enforcement notice appeal reference: ENA-290-2004
- Site address: Land to the rear of 180 Main Street, Pathhead, Midlothian
- Appeal by Mr M Macintosh against the enforcement notice (EN/17/06) dated 29 November 2017 served by Midlothian Council
- The alleged breach of planning control: The carrying out of building operations comprising the erection of a building
- Date of site visit by Reporter: 5 March 2018

Date of appeal decision: 29 March 2018

---

## Decision

I uphold the enforcement notice dated 29 November 2017 but allow the appeal to the extent that I vary the terms of section 5 of the notice by deleting the words “including any foundations, concrete hardstanding, drains, pipes and services” and replacing them with the words “including any drains, pipes and services above ground level”. For the avoidance of doubt the last part of the text of section 5 of the notice (“and remove the resulting material from the land”) remains in place.

Subject to any application to the Court of Session, the enforcement notice takes effect on the date of this decision, which constitutes the determination of the appeal for the purpose of Section 131(3) of the Act.

## Description and background

1. The appeal site is a rectangular plot of land to the rear of 180 Main Street, a house which in turn is situated to the rear of 176 Main Street. The latter is a long established house fronting onto the main road in Pathhead. A shared lane running alongside these properties gives access to land at the rear.
2. At the time of the site visit, the appeal site was partly occupied by an incomplete building. A vehicle body was stored within the building, along with various items and tools, and more items were stored in the open in the outdoor section of the site.
3. The appeal against the enforcement notice is made on the following grounds as provided for by section 130(1) of the Town and Country Planning (Scotland) Act 1997:

- (b) That the breach of control specified in the notice has not occurred.
- (c) That those matters, if they occurred, do not constitute a breach of planning control.
- (d) That, at the date when the notice was issued, it was already too late to take enforcement action.
- (f) That the steps required by the notice exceed what is necessary to remedy any breach of planning control or any injury to amenity which has been caused by any such breach.

4. The appellant, assisted by the previous owner of the site, has provided the planning history of the incomplete building on the appeal site. It was approved as a garage in October 1991. The then owner carried out construction of the shell to wall head level. The building was then left awaiting the roof for over 20 years, due to a lack of funds. It was then sold to Mr Macintosh, as was the associated land at a later date. Mr Macintosh continued the construction work, putting a roof onto the blockwork shell. With good intentions, he formed a new roof structure with a dormer window, not included in the earlier application, accessed by ladder (not a staircase).

5. When this matter came to the attention of the council, Mr Macintosh submitted a retrospective planning application to regularise the variations from the consent for the building. This application was refused.

6. The council has issued two enforcement notices : this one (ENA-290-2004) relating to the erection of the building, and the other (ENA-290-003) relating to the use of the land for storage purposes. The latter is covered by a separate appeal decision notice.

7. The notice relating to the erection of the building requires it to be demolished or dismantled, including the foundations and various other items, within 3 months of the enforcement notice taking effect.

**The appeal under ground (b) - That the breach of control specified in the notice has not occurred.**

8. In support of this ground of appeal, it is contended that the 1991 permission remains extant, as work on the approved building commenced. The building as constructed corresponds in size (including height) to that approved, although it is in a slightly different position so as not to directly abut the outbuilding within the plot of 180 Main Street. The main differences are that the garage door arrangement is different and the introduction of the dormer window. These differences are not significant.

9. The council states that the garage approved in 1991 was associated with 176 Main Street (the front property) but was separated from that plot by the plot of 180 Main Street. Consequently the garage did not constitute permitted development (as a building within the curtilage of a dwellinghouse for a purpose incidental to the enjoyment of the dwellinghouse). The garage has not been built in accordance with the approved plans, and is consequently unauthorised.

10. Plans and elevations of the originally approved garage and the modified version in course of construction have been supplied. The footprint of the two buildings is essentially identical, and the slight repositioning of the building (many years ago) to avoid directly

abutting the outbuilding on the neighbouring plot can be regarded as so minor as to be unimportant in planning terms. However, as the original approval was for a simple single storey garage served by two separate side by side garage doors, the introduction of the dormer window on the southwest facing pitch of the roof, and the installation of a single double width garage door amount to significant changes in the external design of the building. I agree with the council that these changes are too significant (relative to the original approved design) to be set aside as unimportant. Consequently I agree with the council that the scheme under construction does not conform to the original permission. Thus it does not have planning permission, either as permitted development or by a specific consent, so that the appeal under ground (b) fails.

**The appeal under ground (c) : That these matters do not constitute a breach of planning control**

11. The appellant's submissions in relation to ground (c) are similar to those for ground (b) – that the changes to the design of the garage are sufficiently consistent with the original approval as to be within the terms of that permission.

12. The council's position on this ground is also basically similar to that for ground (b).

13. I have already concluded (in paragraph 10 above) that the changes to the external design of the garage are sufficiently significant such that the building that has been partly constructed cannot be construed to be within the terms of the scheme approved in 1991. Consequently I agree with the council that these works do not have the benefit of planning permission, and that there has therefore been a breach of planning control. Thus the appeal against the notice under ground (c) fails.

**The appeal under ground (d) : That, at the date when the notice was issued, it was already too late to take enforcement action**

14. For the appellant, it is stated that the walls and roof structure of the garage were in place at the time that the enforcement notice was served, and the building was in use for the storage of the appellant's items. It was therefore substantially completed at that time.

15. The council states that the front wall with the double garage door, and the roof structure incorporating the dormer window, were added to the original 3 walls in 2016. In addition, the works to the building were not substantially completed at the time that the notice was served. Consequently the service of the enforcement notice in November 2017 was not time barred.

16. Section 124(1) of the Act requires any enforcement action relating to the construction of a building (and other works) to be served within 4 years of the date on which the works are substantially completed. I note that work on the new roof was in progress in 2016, and that the council's assertion that the recent construction work took place in 2016 has not been disputed. Photographs taken at that time show the works in progress, but far from complete, with the roof unfinished, exposed blockwork walls, and no garage doors. On this basis, I am satisfied that the works were not substantially completed at the time when the enforcement notice was served, and that the date of service was well within the 4 year

period required by the legislation. Consequently the council's action was not time barred, and the appeal under ground (d) therefore fails.

**The appeal under ground (f) : That the steps required by the notice exceed what is necessary to remedy the breach of planning control or to remedy any injury to amenity caused by the breach**

17. For the appellant, it is stated that the government guidance on enforcement action (circular 10/2009) states that remedial action to be taken should be appropriate to the scale of the breach. The council's requirements to demolish the garage and to remove the foundation slab and other services, and to remove all the materials from the site, amount to extreme actions that exceed what is necessary to remedy the breach.

18. The council's appeal statement does not address this aspect of the grounds of appeal.

19. As noted above, there is disagreement between the appellant and the council as to whether the 1991 permission has lapsed or not. I note that no work on the approved scheme had been carried out during a period of 20 years, and the new purchaser of the site did not set out to complete that building according to the approved plan but instead introduced significant changes. I think it reasonable to conclude that the intention to complete the building as approved in 1991 was abandoned.

20. Although there is a minor difference between the approved position of the 1991 garage and the building shell subsequently constructed, I have concluded above that this small difference is not significant, with no noticeable planning implications, and that it can be disregarded.

21. I agree with the appellant that removal of the concrete hardstanding and foundations that form the base of the garage structure, and any associated underground drains, pipes and services, is not necessary to achieve the removal of the unauthorised partially completed building that has given rise to this enforcement action. Once the building has been demolished and the resulting materials removed from the site, I consider that the physical presence of the hardstanding will have little or no effect on the general external appearance of the site or its impact on local amenity. The council's objective in serving this notice will have been achieved. Accordingly, in the context of the government guidance on the appropriate requirements of enforcement notices, I conclude that the appeal under ground (f) is partially successful, and that the reference to the demolition or dismantling of "any foundations, concrete hardstanding, drains, pipes and services" in section 5 of the enforcement notice should be removed, subject to clarification that this applies only to any drains, pipes and services that are above ground/floor level.

## **Conclusions**

22. For the above reasons, I conclude that the appeal under grounds (b), (c) and (d) of section 130(1) of the act fail, but that the appeal under ground (f) is partially successful in that the requirements to remove the foundations, concrete hardstanding, and any associated drains, pipes, and services works below ground level should be omitted. Accordingly I uphold the enforcement notice but allow the appeal to the extent that I vary

the terms of the notice by rewording the steps set out in section 5 of the notice to omit the requirements relating to works below ground/floor level.

23. I have taken account of all the other matters raised by both sides in this appeal, but they do not alter my conclusions.

*Richard Hickman*

Reporter





---

Decision by Richard Hickman, a Reporter appointed by the Scottish Ministers

- Enforcement notice appeal reference: ENA-290-2003
- Site address: Land to the rear of 180 Main Street, Pathhead, Midlothian
- Appeal by Mr M Macintosh against the enforcement notice (EN/17/05) dated 29 November 2017 served by Midlothian Council
- The alleged breach of planning control: The change of use of the land to a use of the land for storage purposes, including the storage of : vehicles, trailers, caravans and other ancillary items and parts thereof associated with the vehicles, building materials including stone, bricks and timber, building equipment including portable building, scaffold, ladders, tarpaulin, fencing and other ancillary building materials.
- Date of site visit by Reporter: 5 March 2018

Date of appeal decision: 29 March 2018

---

## Decision

I dismiss the appeal and uphold the enforcement notice (EN/17/05) dated 29 November 2017.

Subject to any application to the Court of Session, the enforcement notice takes effect on the date of this decision, which constitutes the determination of the appeal for the purpose of Section 131(3) of the Act.

## Description and background

1. The appeal site is a rectangular plot of land to the rear of 180 Main Street, a house which in turn is situated to the rear of 176 Main Street. The latter is a long established house fronting onto the main road in Pathhead. A shared lane running alongside these properties gives access to land at the rear.
2. At the time of the site visit, the appeal site was partly occupied by an incomplete building. A vehicle body was stored within the building, along with various items and tools, and more items were stored in the open in the outdoor section of the site.
3. The appeal against the enforcement notice is made on the following grounds as provided for by section 130(1) of the Town and Country Planning (Scotland) Act 1997:  
  
(b) That the breach of control specified in the notice has not occurred.

- (c) That those matters, if they occurred, do not constitute a breach of planning control.
- (d) That, at the date when the notice was issued, it was already too late to take enforcement action.
- (f) That the steps required by the notice exceed what is necessary to remedy any breach of planning control or any injury to amenity which has been caused by any such breach.

4. The appellant, assisted by the previous owner of the site, has provided the planning history of the incomplete building on the appeal site. It was approved as a garage in October 1991. The then owner carried out construction of the shell to wall head level. The building was then left awaiting the roof for over 20 years, due to a lack of funds. It was then sold to Mr Macintosh, as was the associated land at a later date. Mr Macintosh continued the construction work, putting a roof onto the block work shell, and brought various items onto the site.

5. When this matter came to the attention of the council, Mr Macintosh submitted a retrospective planning application to regularise the variations from the consent for the building. This application was refused.

6. The council has issued two enforcement notices : this one (ENA-290-003) relating to the use of the land for storage purposes, and the other (ENA-290-2004) relating to the erection of the building. The latter is covered by a separate appeal decision notice.

7. The notice relating to the use of the land requires the use of the land for storage purposes to cease within 3 months after the notice has taken effect, and the various items (listed in section 3 of the enforcement notice and repeated in the fourth bullet point at the start of this decision notice) to be removed from the land within the 3 month period for compliance.

**The appeal under ground (b) - That the breach of control specified in the notice has not occurred.**

8. In support of this ground of appeal, it is stated that Mr Macintosh continued the construction of the approved garage building with the intention of using it for his own purposes, notably the restoration of a Classic Land Rover. The items and materials that have been brought to the site are for the construction work to complete the building. This work halted when the council intervened, but the materials have remained on site since then. The building cannot be completed if the building materials are removed from the site. They are legitimately on the site to complete the lawful construction of the building, and hence there is no breach of planning control.

9. The council contends that the recent building work that has been carried out to complete the garage is unauthorised (see appeal decision notice ENA-290-2004), and hence that the storage of building materials for that work does not have the benefit of permitted development under the terms of Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

10. I have concluded in the appeal decision relating to the enforcement notice alleging unauthorised building work (ENA-290-2004) that the recent construction work carried out

does not have the benefit of planning permission, principally because it represents a significant departure (relative to the scale of the building) from the garage approved in 1991. Subsection (2)(b) of class 14 of the 1992 permitted development order (relating to Temporary Buildings and Uses) states that this category of permitted development does not apply where planning permission for the development giving rise to the temporary buildings and uses has not been granted. Thus the storage of these and related items cannot benefit from this category of permitted development, and constitutes an unauthorised use, so that the appeal under ground (b) fails.

**The appeal under ground (c) : That these matters do not constitute a breach of planning control**

11. The appellant's submissions in relation to ground (c) are similar to those for ground (b) – that the storage of the building materials is legitimate and necessary to complete the lawfully approved garage building.

12. The council's position on this ground is also similar to that for ground (b). The council contends that the condition of the site has an adverse effect on the amenity of this part of the built up area, and on the character and appearance of the conservation area.

13. I have already concluded (in paragraph 10 above) that the storage of building and related materials at the site in connection with the continuation of construction work on the garage constitutes a breach of planning control. I agree with the council that the stored items and materials have an adverse effect on the amenity of the area, due to their amount and appearance. Thus the appeal against the notice under ground (c) fails.

**The appeal under ground (d) : That, at the date when the notice was issued, it was already too late to take enforcement action**

14. The grounds of appeal do not contain any detailed submissions in support of this ground of appeal, in relation to this enforcement notice.

15. Section 124(3) of the Act requires any enforcement action relating to this type of alleged breach (a material change of use, not being a change of use to use as a single dwellinghouse) to be served within 10 years beginning with the date of the breach. The items and materials have been brought to the site by the appellant to carry out construction work on the building, which has apparently mainly taken place during 2016. The activity has therefore commenced well within the 10 year period required by the legislation. Consequently the council's action was not time barred, and the appeal under ground (d) therefore fails.

**The appeal under ground (f) : That the steps required by the notice exceed what is necessary to remedy the breach of planning control or to remedy any injury to amenity caused by the breach**

16. For the appellant, it is argued that the steps required by the notice are unreasonable, and will not result in a positive outcome. If the building materials are removed, the garage cannot be completed. It has a valid consent but is prevented from being finished, which would then allow the building materials to be removed from the site.

Scottish Government guidance on enforcement advises that action should be appropriate to the scale of the breach. The council is itself creating the circumstances causing the breach.

17. The council's appeal statement does not explicitly address this aspect of the grounds of appeal, other than to state that cessation of the use of the land for storage and the removal of all of the items listed in the enforcement notice is reasonable, in the context of the adverse effect on the amenity of the area and the character and appearance of the conservation area.

18. I agree with the council that the presence on the site of the various items listed in the enforcement notice has an undesirable adverse effect on the amenity of the area, which is closely adjoined by residential properties. This is due to the amount and appearance of the items and materials involved.. As I have agreed with the council that the storage of these items constitutes a breach of planning control, their removal is a necessary step to remedy the breach. Allowing them to remain on site to facilitate the completion of building works which are themselves unauthorised would not be likely to achieve the objective of the council's enforcement notice.

## Conclusions

19. For the above reasons, I conclude that the appeal against this notice fails under all 4 of the grounds that have been lodged, and that the enforcement notice should be upheld. I have taken account of all the other matters raised, but they do not alter my conclusions.

*Richard Hickman*

Reporter







---

## **PRE - APPLICATION REPORT REGARDING RESIDENTIAL DEVELOPMENT WITH ASSOCIATED ACCESS, OPEN SPACE AND ASSOCIATED WORKS AT LAND NORTH WEST OF MOAT VIEW, ROSLIN (18/00139/PAC)**

Report by Head of Communities and Economy

---

### **1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to advise the Committee of a pre-application consultation submitted regarding a proposed residential development with access roads, open space and associated works at land north-west of Moat View, Roslin. The majority of the site comprises the larger part of site Hs19 Roslin Expansion in the Midlothian Local Development Plan 2017 (MLDP).
- 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 residential development with access roads, open space and associated works at land north-west of Roslin was submitted on 28 February 2018.
- 2.3 As part of the 12 week pre-application consultation, a public event took place at the Masonic Lodge in Roslin on 29 March 2018. On the conclusion of the consultation the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the Committee at its meeting in June 2017) not

offer views, as the forum for doing so will be at meetings of the Planning Committee.

- 2.4 Copies of the pre application notices have been sent by the prospective applicant to the local elected members and to Roslin and Bilston Community Council and the Roslin Heritage Society.

### **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 16.12 hectare site is situated on predominantly agricultural land on the northern side of Roslin, largely comprising the larger part of site Hs19 Roslin Expansion in the MLDP. The southern boundary of the site extends to the public path along the disused railway line to the rear of Moat View. The eastern boundary of the site extends to the B7003/Main Street, but excluding the smaller part of the Hs19 allocation, that part of the allocation having already been subject to pre-application consultation (reported to the Committee at its meeting of November 2017). The site is otherwise surrounded by farm tracks and paths with agricultural land beyond. To the north, a smaller part of the site extends beyond the farm track, crossed by the Kill Burn and its wooded banks. This part of the site is outwith the Hs19 housing allocation.
- 3.4 No further details of the proposal have been submitted with the pre-application consultation.
- 3.5 Site Hs19 is allocated for an indicative 260 residential units in the MLDP. On this part of the site there is a presumption in favour of appropriate residential development. The smaller part of the site extending beyond the farm track to the north, crossed by the Kill Burn and its wooded banks, is greenbelt and prime agricultural land where there is a presumption against residential development.
- 3.6 Development considerations identified in the MLDP relevant to site Hs19 include:
- Good connections should be established with Roslin village;
  - The need to develop/expand the green network in the area;
  - The northern edge of the site will require substantial landscaping in the form of a 20-30m wide woodland belt to help screen the development from the A701;
  - Existing vegetation should be maintained and enhanced, including the burnside corridor;

- An avenue to link through the site with swales, trees and a path should be included in any proposal;
- The impact of development on the adjacent historic battlefield is to be considered, and archaeological evaluation may be required;
- Development will require additional capacity to be provided at Roslin Primary School and for secondary education in the A701 corridor, for which developer contributions will be sought;
- Contribution towards the A701 Relief Road will be required; and
- The provision of affordable housing.

3.7 If an application is submitted there will be a presumption in favour of the proposed development within site Hs19, subject to securing developer contributions, in compliance with policy STRAT3 of the MLDP. There is likely to be a presumption against development in the area beyond the farm track to the north of the site as development would be contrary to policies ENV1 and ENV4 of the MLDP, however landscaping in this part of the site may be acceptable in support of the development.

#### **4 PROCEDURES**

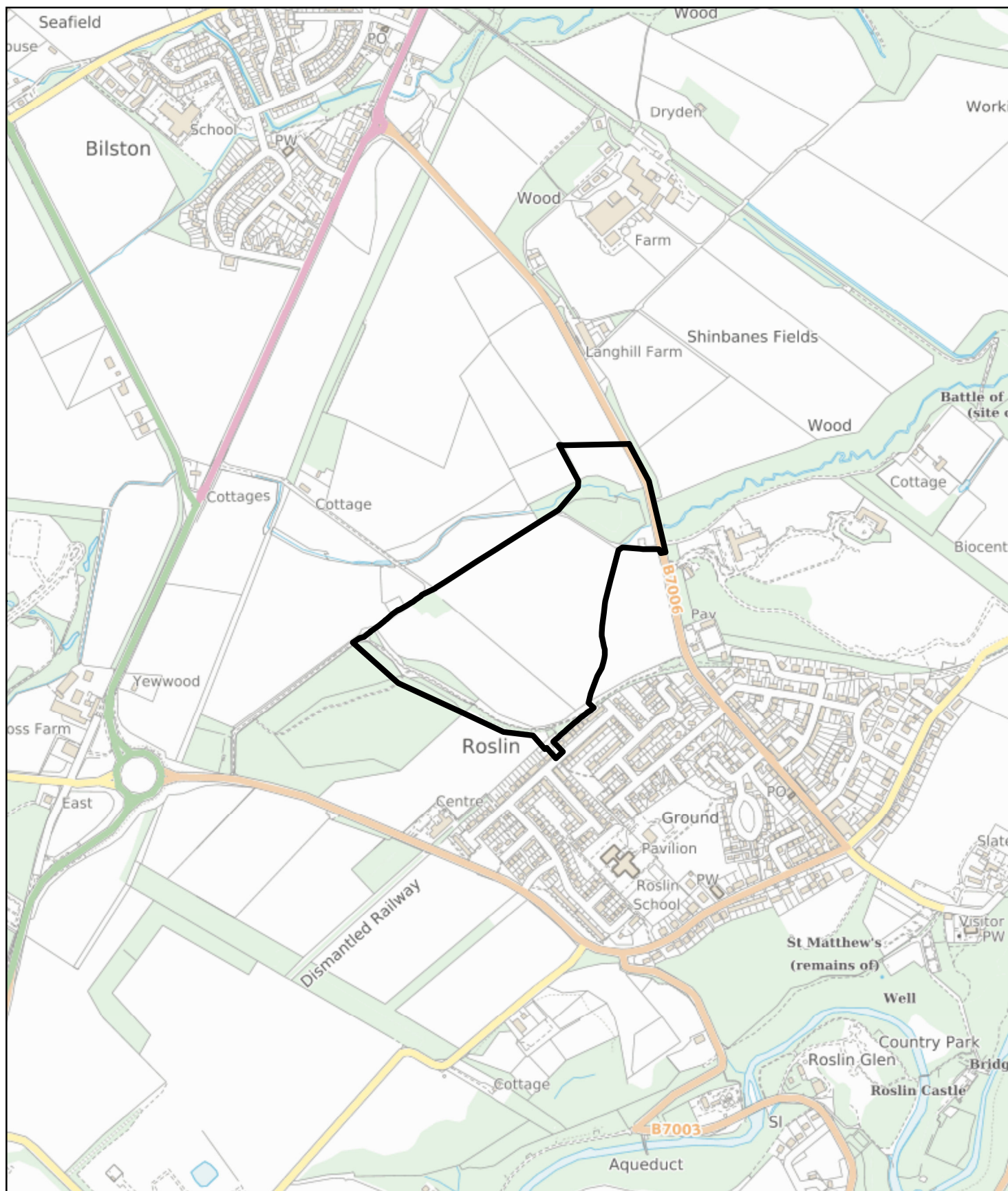
- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice' 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.

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

**Date:** 8 May 2018  
**Contact Person:** Brian Forsyth, Planning Officer  
**Tel No:** 0131 271 3473



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

Proposal of application notice for residential development  
with associated access, open space and associated works  
at Land North West Of Moat View, Roslin

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 (2018)

File No. 18/00139/PAC

Scale: 1:10,000  
Page 83 of 118









---

**SECTION 42 APPLICATIONS (18/00150/S42 AND 18/00151/S42) TO REMOVE CONDITION 5 OF PLANNING PERMISSIONS 201/83 AND 590/83 WHICH RESTRICTS THE OCCUPANCY OF 19A DAMHEAD, LOTHIANBURN.**

Report by Head of Communities and Economy

---

**1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1 This report covers two planning applications which seek to remove condition 5 of planning permission 201/83 and condition 5 of planning permission 590/83 which restrict the occupancy of the dwellinghouse erected at 19A Damhead, Lothianburn.**
- 1.2 There have been three representations and a consultation response from the Damhead & District Community Council.**
- 1.3 The relevant development plan policies are policy 12 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies RD1, ENV1 and ENV4 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.4 Material considerations in the assessment of the application include; the Scottish Government Chief Planner's letter dated November 2011 issued to all Councils in Scotland regarding *Occupancy Restrictions and Rural Housing*, and the Scottish Government's planning policy position set out in Scottish Planning Policy (SPP) and Planning Circular 4/1998: The use of conditions in planning permissions.**
- 1.5 The recommendation is to grant planning permission for both applications subject to an amended condition to restrict the occupancy of 19A Damhead.**

**2 LOCATION AND SITE DESCRIPTION**

- 2.1 The application site is located within the green belt 1.5km to the west of Loanhead. The application dwelling fronts Burnside Road which is located between the A703 and Pentland Road, Damhead.**
- 2.2 The application site comprises a single storey dwellinghouse with a pitched roof and a single storey flat roof garage; both of which are**

finished in facing brick. The application dwelling 19A Damhead is associated with approximately 1.82 ha (4.5 acres) of agricultural land.

### **3 PROPOSAL**

- 3.1 The applications, 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), seek to remove an occupancy condition attached to two grants of planning permission for the erection of a single dwellinghouse.
- 3.2 A Section 42 application, is in itself a planning application - a particular kind of planning application for development without complying with a 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(s) if implemented. Therefore if planning permission is granted for these applications it will replace planning consents 201/83 and 590/83.
- 3.3 Two separate section 42 applications have been submitted, the first is to remove condition 5 of planning permission 201/83 and the second is to remove condition 5 of planning permission 590/83.
- 3.4 Condition 5 of planning applications 590/83 and 201/83 states:
- The new house shall be occupied only by a person employed, or last employed, full-time locally in agriculture, as defined in Section 275(1) of the Town & Country Planning (Scotland) Act 1972 (including any dependants of such a person residing with him/her), or by the widow or widower of such person.*
- 3.5 The definition of agriculture, as defined in Section 275(1) of the Town & Country Planning (Scotland) Act 1972 states “agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding of and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of the land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of the land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly.
- 3.6 The applicant has submitted supporting statements to justify the removal of the conditions.

### **4 BACKGROUND**

- 4.1 Pre-application advice was provided to the applicant in February 2018 with regards to the removal of the occupancy condition. The applicant was advised that there was no policy support or other material planning

considerations that would justify the removal of the occupancy condition.

- 4.2 Application 17/00746/LA to discharge the planning obligation associated with the erected house built under planning permission 201/83, which contained an occupancy restriction, was approved 19 December 2017. It was agreed to remove the legal agreement because it duplicated the restrictive planning condition.
- 4.3 Planning application 00/00284/FUL for the removal of Condition 5 (of planning permission 201/83 and 590/83) restricting the occupancy of the dwellinghouse was refused by the Committee at its meeting of 14 December 2000 for the following reasons:
1. *The house to which the application relates is within an area subject to greenbelt and countryside policies in the development plan. The house was given planning permission solely on the basis that it was essential to agricultural activity on the forty hectares of land with which it was associated.*
  2. *The applicants have not demonstrated to the satisfaction of the Council that the house and associated land cannot be sold as a going concern or as a farm unit that has potential to be economically viable.*
  3. *Justification of the application in terms of the current difficulties in agriculture generally, if accepted, would open the way for an application for further houses if there were revival in agricultural activity after the present house had been separated from the agricultural unit and disposed of as a private residence.*
- 4.4 Planning permission, 590/83 for the erection of a dwellinghouse was approved subject to conditions on the 13 August 1984.
- 4.5 Outline planning permission, 201/83 for the erection of a dwellinghouse was approved subject to conditions and a legal agreement on the 2 August 1984.
- 4.6 An occupancy condition was attached to both planning permissions 201/83 and 590/83 to restrict the occupancy of the dwellinghouse.
- 4.8 The applications have been called to Committee for consideration by Councillor Winchester to discuss the advice provided by the Chief Planner for Scotland by way of a letter issued in 2011 in relation to occupancy conditions.

## 5 CONSULTATIONS

- 5.1 The **Damhead & District Community Council** submitted two letters of support for the planning applications. The Community Council are of

the opinion that the occupancy condition is contrary to the Scottish Government's planning policy position. Furthermore, circumstances regarding the house have changed in terms of its surroundings, in that there is planned housing development in the green belt (*it is unclear to which sites the Community Council are referring*). It is also noted that the original applicants are now deceased and therefore the use of an occupancy condition is no longer relevant.

## 6 REPRESENTATIONS

- 6.1 There have been three representations supporting both planning applications. All three representations considered the use of occupancy conditions to be contrary to Scottish Planning Policy (SPP). All representations can be viewed in fully online.

## 7 PLANNING POLICY

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

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan)

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

Midlothian Local Development Plan 2017 (MLDP)

- 7.3 Policy **ENV1**: Protection of the Green Belt advises that development will not be permitted in the Green Belt except for proposals that;
- A. are necessary to agriculture, horticulture or forestry; or
  - B. provide opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield; or
  - C. are related to other uses appropriate to the rural character of the area; or
  - D. provide for essential infrastructure; or
  - E. form development that meets a national requirement or established need if no other site is available.

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



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

- 7.4 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.

#### National Policy

- 7.5 The **Scottish Planning Policy (SPP) 2014** supports the concept of promoting rural development. Stating the Planning system should encourage rural development that supports prosperous and sustainable communities and businesses whilst at the same time protecting and enhancing the environment. Development should be appropriate to the character of the particular rural area in which it is located and the challenges it faces.

- 7.6 The SPP also states that in the pressurised areas easily accessible from Scotland's cities and main towns, where ongoing development pressures are likely to continue, it is important to protect against an unsustainable growth in car-based commuting and the suburbanisation of the countryside, particularly where there are environmental assets such as sensitive landscapes or good quality agricultural land. Plans should make provision for most new urban development to take place within, or in planned extensions to, existing settlements.

- 7.7 Inaccessible or pressured rural areas, where there is a danger of unsustainable growth in long-distance car-based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate, and plans and decision-making should generally:

- guide most new development to locations within or adjacent to settlements; and
- set out the circumstances in which new housing outwith settlements may be appropriate, avoiding use of occupancy restrictions.

This position set out in the 2014 SPP post-dates the position set out in the Scottish Government Chief Planner's letter dated November 2011 issued to all Councils in Scotland regarding *Occupancy Restrictions and Rural Housing*.

- 7.8 Scottish Government advice **Circular 4/1998 (The use of conditions in planning permissions)** sets out six tests which planning conditions must comply with:

- Necessary;
- Relevant to planning;
- Relevant to the development to be permitted;
- Enforceable;
- Precise; and
- Reasonable in all other respects.

7.9 The circular states that where appropriate, development plans should specify the policies which the authority proposes to implement regularly by means of planning conditions. In many parts of Scotland planning policies impose strict controls on new residential development in the green belt/countryside. However there are circumstances where planning permission for a dwellinghouse is granted to support agriculture or forestry. In these circumstances, it will often be necessary to impose an agricultural or forestry worker occupancy condition in support of those industries.

7.10 Planning authorities will wish to take care to frame agricultural occupancy conditions in such a way as to ensure that their purpose is clear. In particular, they will wish to ensure that the condition does not have the effect of preventing future occupation by retired agricultural workers or the dependants of the agricultural occupant.

7.11 Where an agricultural occupancy condition has been imposed, it will not be appropriate to remove it on a subsequent application unless it is shown that circumstances have materially changed and that the agricultural need which justified the approval of the house in the first instance no longer exists.

7.12 Further to the above policy position, the Scottish Government **Chief Planner** wrote to all Councils in Scotland regarding *Occupancy Restrictions and Rural Housing*, in November 2011. Whilst this letter was not originally considered as planning policy, circular 03/2012 (Planning Obligations and Good Neighbour Agreements) required it to be treated as such when it was issued in December 2012. In any event it did indicate the Scottish Government's position regarding occupancy restrictions.

7.13 The letter sets out the following position (which is reflected in the later SPP):

“A number of issues have arisen with the use of occupancy restrictions, some of which have been exacerbated by the current economic situation. Some people have found it difficult to get a mortgage to buy a house with an occupancy restriction. Others have found it difficult to sell the house, or have the restriction lifted, when they are forced by necessity to move.

Scottish Planning policy promotes a positive approach to rural housing. It states that development plans should support more opportunities for

small scale housing development in all rural areas, including housing which is linked to rural businesses. It does not promote the use of occupancy restrictions. The Scottish Government believes that occupancy restrictions are rarely appropriate and so should generally be avoided.

In determining an application for a new house in the countryside, it may be appropriate for the planning authority to consider the need for a house in that location, especially where there is the potential for adverse impacts. In these circumstances, it is reasonable for decision-makers to weigh the justification for the house against its impact, for example on road safety, landscape quality or natural heritage, and in such circumstances it may be appropriate for applicants to be asked to make a land management or other business case. Where the authority is satisfied that an adequate case has been made, it should not be necessary to use formal mechanisms to restrict occupancy.

The Scottish Government believes that a vibrant populated countryside is a desirable objective and that new housing to realise this aim should be well sited and designed, and should not have adverse environmental effects that cannot be readily mitigated. In areas, including green belts, where, due to commuter or other pressure, there is a danger of suburbanisation of the countryside or an unsustainable growth in long distance car-based commuting, there is a sound case for a more restrictive approach.”

## **8 PLANNING ISSUES**

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

### The Principle of Development

- 8.2 The original planning applications (201/83 and 590/83) for the erection of a dwellinghouse were approved in 1984 in support of an agricultural business. The agricultural occupancy condition was attached to the planning permissions so as to ensure that the new house complied with development plan policy.
- 8.3 The aim of policy ENV1 of the MLDP is to protect the landscape setting, character and identity of Edinburgh and the settlements of Midlothian by preventing coalescence and the suburbanisation of the green belt/countryside. The local development plan was adopted in November 2017 following a local plan examination - the policy is therefore considered robust and reflective of the Scottish Government's position set out in SPP. The use of a planning condition limiting its occupancy meets the policy criteria, enabling development in support

of rural business whilst also protecting the characteristics of the green belt. This reflects the sentiment of the Scottish Government Chief Planner letter to all Councils in Scotland regarding *Occupancy Restrictions and Rural Housing*, in November 2011.

- 8.4 The SPP seeks to achieve a balance between promoting a positive approach to rural housing whilst delivering sustainable development and protection of the green belt. This approach is reflected in the Council's development plan policies and in response new houses in the green belt must be linked to an appropriate countryside activity. This is based on sustainability principles and means that the landscape being impacted upon is benefiting economically. Where an acceptable case has been put forward for a dwelling in the green belt, a planning condition limiting the occupancy is still appropriate in support of rural businesses. This is compatible with local development plan policy and national planning policy with regard green belt areas faced with development pressure and the risk of becoming suburbanised.
- 8.5 Removal of the occupancy condition attached to the planning permissions would result in a dwellinghouse in the green belt which is not required in support of a rural business, resulting in commuter pressure contrary to the MLDP and SPP. In response to the Scottish Government's position regarding occupancy conditions the planning authority is moving away from their use when considering applications for new dwellings and are making decisions in terms of approve or refuse, rather than having a middle ground of approve subject to an occupancy condition. However, the current applications relate to a dwellinghouse already in situ.

#### Viability

- 8.6 The applicant's supporting statement advises that 19A Damhead is not a viable agricultural unit. The smallholding includes approximately 4.5 acres of Grade 3(1) agricultural land as defined by the James Hutton Institute's *Land Capability for Agriculture Classification*; which means it is capable of producing a variety of crops. This means that the acreage and quality of pasture is sufficient to support 1 livestock unit per acre which is the equivalent to 1 cow or 6 sheep; although it is noted that there are no livestock housing facilities on the site.
- 8.7 Furthermore, it is advised that as the holding is smaller than 3 hectares it would not be eligible for an agricultural subsidy and on the basis that agricultural subsidies play a critical role in the profitability of farms the site's size alone ensures the smallholding is not viable.
- 8.8 The supporting statement concludes that whilst the land quality in the area is known for its fertility, the economics of modern agriculture means that the property is unable to be classed as a viable unit.

- 8.9 A case has been put forward which demonstrates that 19A Damhead may not be viable for livestock or crops due to its size. However, it has not been demonstrated that the applicant has investigated all options available in advance of seeking to remove the occupancy conditions. There is a demand for housing at an affordable price for agricultural workers and labourers who are often paid at the lower end of the wage scale. A residential property with a restrictive agricultural occupancy condition actively helps to meet this housing need in support of the agriculture and forestry industries.
- 8.10 The lack of viability/profitability of the holding does not necessarily justify the requirement for the conditions to be removed. The occupancy conditions attached to the planning permissions do not restrict the occupancy of the dwelling to only be linked to the farm land associated with 19A Damhead. The occupancy condition allows the house to be occupied by someone who is either employed full-time in local agriculture or is retired and whose last full-time job was in local agriculture.
- 8.11 Within the supporting statement the agent advises that the application was openly marketed for 11 weeks from the 28 September 2017 to the 14 December 2017. The supporting statement advised that agents received 16 enquiries and six viewings; it was noted that all parties who viewed the property had no current or previous connection with agriculture.
- 8.12 The Particulars stated that 'there is an occupancy restriction on the property at 19A Damhead and that an application to remove this occupancy restriction has been lodged with Midlothian Council following changes to national planning policy in recent years. It is anticipated that this will be removed prior to sale'. The occupancy restriction refers to the legal agreement that was discharged on the 19 December 2017 after the closing date of the sale. No reference was made to the planning condition attached to the planning permissions.
- 8.13 There is an argument that can be made that the application site had been marketed on the presumption that the occupancy restrictions would be removed. However, as previously noted it has not been demonstrated that the applicant has investigated all options available in advance of seeking to remove the occupancy condition. The site could be marketed at the agricultural and forestry industry at a reduced value to reflect the occupancy restriction – this may attract a potential purchaser.

#### The Use of Conditions in Planning Permissions

- 8.14 Planning conditions must satisfy the tests within circular 4/1998. The circular states that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. The circular sets out six tests, namely that a condition shall



only be imposed where it is necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

- 8.15 Whilst each planning application must be considered on its own individual merits, the Council must reasonably consider the potential impact one decision has on future considerations. A core objective of the Council's green belt policy is to protect the landscape setting, character and identity of Edinburgh and the settlements of Midlothian by preventing coalescence and the suburbanisation of the countryside by restricting unjustified development. To ensure the benefits of the green belt are safeguarded, it is important that strong controls are maintained over the remaining designated areas.
- 8.16 In assessing whether the condition was necessary, relevant to the development to be permitted and relevant to planning policy on housing development in the green belt the Council accepted the requirement for a house based upon the argument that it was required for the furtherance of agricultural activity. The occupancy condition was required so as to ensure that the new dwelling complied with the planning policy that was in force at the time of approval. Furthermore, adopted policy ENV1 also requires a planning condition limiting the occupancy of the house. The local development plan was adopted in November 2017 which emphasises that the policy is robust and demonstrates that the occupancy condition is necessary and relevant.
- 8.17 The remaining tests relate to whether the condition is enforceable, precise and reasonable in all other respects. The condition is flexible in terms of the occupancy restrictions that have been placed on 19A Damhead. The occupancy condition was required so as to ensure the dwelling complied with the planning policy in force at the time of the approval and the current adopted policy, ENV1. It is therefore considered to be reasonable.
- 8.18 However, condition 5 could be more precise which would make it more enforceable; the condition lacks a definition of the term 'locally' which does not provide certainty by which the applicant can ascertain what is required. Furthermore, the current condition refers to legislation which is no longer in force. It is therefore appropriate to use the opportunity these applications present to update the conditions for the benefit of the applicant, the Council and future occupants of the property.
- 8.19 The removal of the occupancy condition would result in a development contrary to the development plan and undermine the implementation of the Council's green belt policy as set out in the adopted local development plan. The proximity of the site to Edinburgh would make the house and area subject to pressure for commuter housing, instead of serving Damhead, other local agriculture businesses or local agricultural workers.

- 8.20 The other conditions (excluding condition 5) attached to planning permission 201/83 and 590/83 were pre-commencement conditions and were discharged as part of the process of building the house.

## 9 RECOMMENDATION

- 9.1 That planning permission for both applications be approved for the following reason:

*The house to which the application relates is within an area that is subject to green belt policies within the adopted Midlothian Local Development Plan 2017 and it is considered that the fundamental issue underpinning the requirement for the condition covering the occupancy restriction is the need to safeguard the character and appearance of the Midlothian countryside and green belt. It is considered that condition 5 attached to the planning permissions 201/83 and 590/83 does not meet all of the test of the Scottish Government's Planning Circular 4/1998 (The use of conditions in planning permissions) in terms of being precise or enforceable. The removal of the condition is only recommended on the basis that a more precise and enforceable condition is attached to limit the occupancy of the dwellinghouse so as to comply with the policy in force at the time of approval and the current adopted policy ENV1.*

Subject to the following condition:

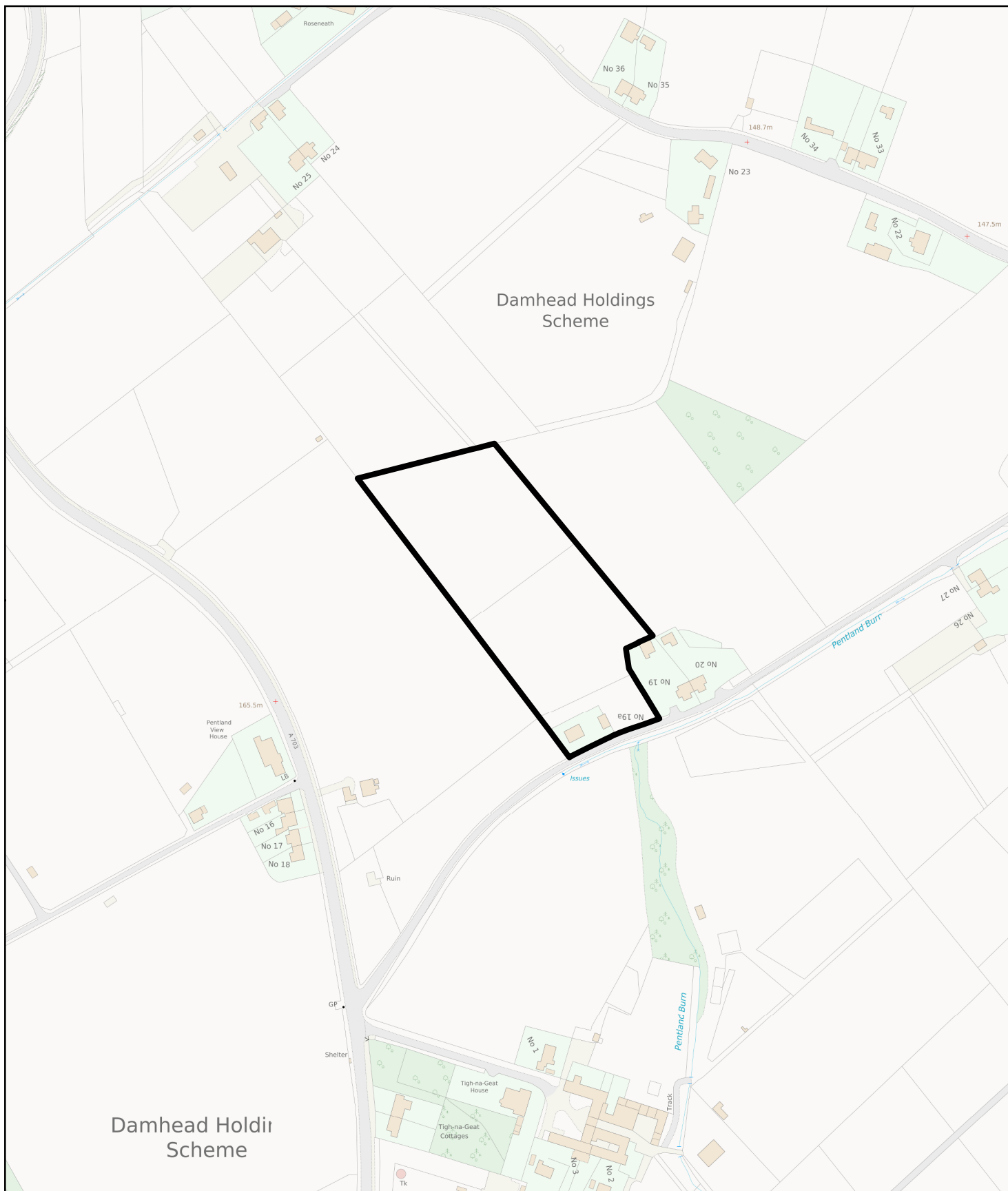
1. The new house shall be occupied only by a person employed, or last employed, full-time in Midlothian, as defined in the adopted Midlothian Local Development Plan 2017, in agriculture, as defined in Section 277 (1) of the Town & Country Planning Scotland Act 1997 (or any Order revoking and re-enacting that Order), including any dependants of such a person residing with him/her or by the widow or widower of such person.

**Reason:** *It has not been demonstrated, to the satisfaction of the planning authority, that the applicant has investigated all options available in advance of removing the occupancy condition. In the absence of this justification, the planning authority have significant and serious concerns regarding the sustainability of the house in this sensitive landscape which is under increasing pressure from creeping suburbanisation. To ensure that the dwellinghouse complies with the policy in force at the time of approval and the current adopted local development plan policy ENV1. To clarify the scope of the occupancy restriction of the dwellinghouse and to clarify the definition of agriculture in terms of current legislation so as to meet the all of the tests within planning circular 4/1998 (The use of conditions in planning permissions).*

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

**Date:** 8 May 2018

**Application No:** 18/00150/S42 and 18/00151/S42  
**Applicant:** Mr Robert Lawrie  
**Agent:** Mr Andrew McCafferty  
**Validation Date:** 06 March 2018 (both applications)  
**Contact Person:** Whitney Lindsay  
**Tel No:** 0131 271 3315  
**Background Papers:** 17/00746/LA, 201/83 and 590/83.



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

Section 42 applications to remove condition 5 of Planning  
Permissions 590/83 (18/00150/S42) and 201/83 (18/00151/S42)

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 (2018)

File No. 18/00150/S42 and 18/00151/S42

Scale: 1:3,500  
Page 97 of 118









---

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

Report by Head of Communities and Economy

---

**1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

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

**2 LOCATION AND SITE DESCRIPTION**

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

### **3 PROPOSAL**

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

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

## **4 BACKGROUND**

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

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

## 5 CONSULTATIONS

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

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



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

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

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

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

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

## **6 REPRESENTATIONS**

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

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

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

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

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

## 7 PLANNING POLICY

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

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

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

### Midlothian Local Development Plan 2017 (MLDP)

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

- 7.7 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.8 Policy **ECON1: Existing Employment Locations** seeks to safeguard those sites allocated for economic land uses.
- 7.9 Policy **ECON3 Ancillary Development on Business Parks** supports the principle of ancillary uses (such as child day care services, banking, convenience, healthcare services) at Shawfair Park and Salter's Park where these are of a scale suitable to service the existing and expanding workforce and business community at these locations.
- 7.10 The provision of and support for, ancillary development will be considered subject to:
- an assessment of the proposed uses and scale of provision not having an adverse impact on the prospects for Shawfair (proposed) and Dalkeith (existing) town centres; and
  - the preparation of a masterplan indicating the scale, location and timing of provision.
- 7.11 Where substantive development is yet to commence, support for ancillary uses will only be considered if it is likely to act as an enabler to attract further investment to that business location. In each case, planning obligations will be used to regulate the scale, nature, extent and timing of such facilities, including any advanced provision.
- 7.12 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.13 Policy **TRAN5: Electric Vehicle Charging** seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.
- 7.14 Policy **TCR1 Town Centres** supports proposals for retail, commercial leisure development or other uses which will attract significant numbers of people in Midlothian's town centres, provided their scale and function is consistent with the town centre's role. In support of this policy the Council will prepare supplementary guidance on food and drink and other non-retail uses in town centres; this guidance will also include guidance in respect of food and drink and hot food takeaways outwith town centres. The guidance is currently being prepared by the Council.
- 7.15 Policy **TCR2 Location of New Retail and Commercial Leisure Facilities** states that the Council will apply a sequential town centre first approach to the assessment of such applications. The policy does not refer to or apply to food and drink uses or hot food takeaways.
- 7.16 Policy **ENV1: Protection of the Green Belt** advises that development will not be permitted in the Green Belt except for proposals that;
- A. are necessary to agriculture, horticulture or forestry; or



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

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

- 7.17 Policy **ENV4: Prime Agricultural Land** does not permit development that would lead to the permanent loss of prime agricultural land unless there is appropriate justification to do so.
- 7.18 Policy **ENV7: Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.
- 7.19 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.
- 7.20 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environmental.
- 7.21 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular

amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.

- 7.22 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.23 Policy **ENV 17 Air Quality** states that the Council may require further assessments to identify air quality impacts where considered requisite. It will refuse planning permission, or seek effective mitigation, where development proposals cause unacceptable air quality or dust impacts.
- 7.24 Policy **ENV18: Noise** requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.
- 7.25 Policy **ENV25: Site Assessment, Evaluation and Recording** requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the likely impact of the proposal on the archaeological resource.
- 7.22 Policy **NRG 6 Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.23 Policy **IMP1: New Development**. This policy ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are, transport infrastructure; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural interests affected; archaeological provision and 'percent for art' provision.
- 7.24 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.
- 7.25 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

## National Policy

- 7.26 The **SPP (Scottish Planning Policy) 2014** sets out Government guidance in relation to creating a successful sustainable place, supporting economic growth, regeneration and the creating of well-designed places. SPP promotes town centres identifying the 'town centre first principle'. Development plans should adopt a sequential town centre first approach for uses such as retail with the order of preference being town centres, edge of town centres, other commercial centres identified in the development plan, and out of centre locations that are or can be made easily accessible by a choice of transport modes.
- 7.27 In relation to supporting business and employment the planning system should:
- promote business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environments as national assets;
  - allocate sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities; and
  - give due weight to net economic benefit of proposed development.
- 7.28 Plans should align with relevant local economic strategies to meet the needs and opportunities of indigenous firms and inward investors, recognising the potential of key sectors for Scotland with particular opportunities for growth, including:
- energy;
  - life sciences, universities and the creative industries;
  - tourism and the food and drink sector; and
  - financial and business services.
- 7.29 SPP introduces a presumption in favour of development that contributes to sustainable development, but states:

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

## **8 PLANNING ISSUES**

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

## Principle of Development

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

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

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

#### The Economic Case

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



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

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

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

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

#### Form of Development

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

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

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

#### Other Issues

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

#### Developer Contributions

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

## **9 RECOMMENDATION**

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

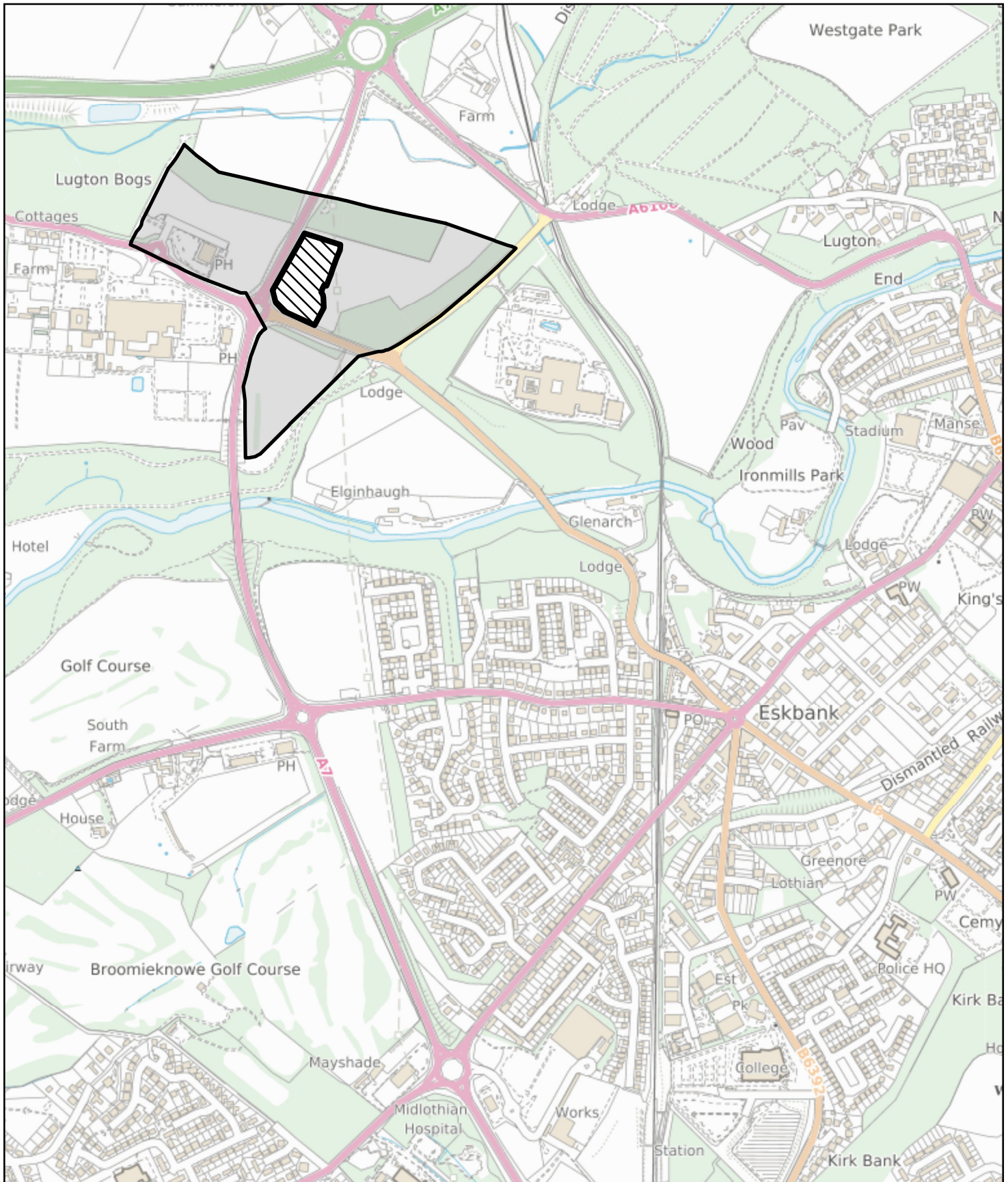
1. The proposed land uses are not in accordance with the site's allocation for Class 4 business uses in the development plan and as such the development is contrary to policy 2 of the Strategic Development Plan for Edinburgh and the South-East Scotland (approved in 2013), policies STRAT1, ECON1 and ENV1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

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

**Date:** 8 May 2018

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





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

## Sheriffhall South Site Context



Application Site

Sheriffhall South Site Area (e32)

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 (2018)

File No. 17/00537/DPP

Scale: 1:10,000  
Page 118 of 118

