



**APPLICATION FOR PLANNING PERMISSION 17/00641/PPP FOR
PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF RETAIL
UNIT AT SOUTRA MAINS FARM, BLACKSHIELDS, FALA, PATHHEAD**

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 This application is for planning permission in principle for the erection of a retail unit at Soutra Mains Farm, Pathhead. There has been one letter of representation and consultation responses from Transport Scotland, Scottish Water and the Council's Policy and Road Safety Manager.**
- 1.2 The relevant development plan policies are policies 3 and 8 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies RP1, RP6, RP7, ECON8, SHOP5, IMP1 of the adopted Midlothian Local Plan 2008 (MLP). Policies RD1, TRC2, ENV6 and ENV7 of the Proposed Midlothian Local Development Plan (MLDP) are significant material considerations.**
- 1.3 The planning history of the application site is also a significant material consideration as retail development at this rural location has been previously refused by the Council's Local Review Body, the Council's Planning Committee and by a Reporter appointed by the Scottish Ministers, who dismissed an appeal seeking planning permission for retail units on the site.**
- 1.4 The recommendation is to refuse planning permission.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The application site comprises a rectangular area of agricultural land at Soutra Mains Farm, measuring 0.44 hectares, which currently accommodates a large agricultural shed.**
- 2.2 The collection of buildings at Soutra Mains Farm includes four holiday cottages, a single storey cafe building, two farm houses and agricultural buildings. The holiday cottages and cafe are relatively recent additions (2014) to the group.**

- 2.3 Access and egress at the application site is taken via the existing new vehicle access road taken from the A68. This access was formed as part of the holiday cottage and café development.

3 PROPOSAL

- 3.1 The applicant is seeking planning permission in principle for the erection of a retail unit. An indicative design and layout has been submitted alongside the application. It is noted within the applicant's supporting information that an internal floor space of some 1,800 square metres would be created within the application site.
- 3.2 The indicative design of the retail unit shows an open plan interchangeable retail space that can be utilised by various small businesses. The proposal comprises a mostly single storey building arranged around a courtyard in the style of an agricultural steading.
- 3.2 The applicant has submitted a selection of documents in support of the application, including:
- landscape and visual appraisal;
 - transportation assessment;
 - design and access statement;
 - ecological/habitat survey;
 - indicative layout and design drawings; and
 - planning statement.
- 3.4 The applicant has submitted a petition in support of the application with 119 signatures collected from customers of the cafe. The petition has been taken into consideration as a representation despite having been arranged and submitted by the applicant's agent.

4 BACKGROUND

- 4.1 Outline planning permission, **08/00159/OUT**, for the erection of holiday cottages, coffee shop, parking area and new access road was approved in May 2010. Permission was **granted** subject to a number of conditions, including a limit on the number of holiday cottages to four. The coffee shop was allowed as being ancillary to the main use of the site as holiday accommodation.
- 4.2 A detailed planning application **10/00538/DPP** for the erection of a coffee/gift shop and four holiday lodges was **refused** in December 2010 for the following reasons:

1. It has not been demonstrated that the proposed retail use has a requirement for a countryside location and it is not of a scale appropriate to its position in the countryside and area of great landscape value; for these reasons the proposal does not comply with the terms of policy RP1 of the Midlothian Local Plan.

2. The proposal does not comply with the terms of policy ECON8 of the Midlothian Local Plan as it primarily comprises a retail development of an inappropriate scale in the countryside.

3. The scale, form and design of the proposed development will have an adverse impact on the character and appearance of the landscape, which forms part of the area of great landscape value, and which convey a level of development inappropriate to the confines of this site ; and is therefore contrary to the terms of policies RP6 and RP7 of the Midlothian Local Plan.

4. The proposed tourist accommodation dwellings have not been designed to enhance the area of great landscape value and results in buildings that are out of character with the rural setting ;and as such do not comply with the terms of policies DP1 and ECON7 of the Midlothian Local Plan.

5. The increased level of traffic generated by the retail use would lead to an increased level of traffic leaving and entering the trunk road which may be detrimental to the safety of other road users.

- 4.3 Application **11/00199/MS**C to discharge the conditions of the original 2008 application was **approved**. However, it was only possible to discharge some of the conditions as information had not been submitted in connection with some of the outstanding conditions.
- 4.4 Application **12/00067/MS**C was submitted to address the remaining outstanding matters relating to the 2008 and 2011 applications. However, insufficient information was submitted and a further grant of permission was issued, but not all the conditions were discharged.
- 4.5 Application **13/00274/MS**C was submitted in order to discharge the outstanding matters from the 2008, 2011 and 2012 applications. This application was submitted with the same information as had been submitted previously. The planning authority **refused** the planning application due to not being able to assess the proposal given the lack of information submitted by the applicant.
- 4.6 Planning application **13/00370/DPP** for the erection of four retail units (part retrospective) was **refused** in September 2013 for the following reasons:

1. The proposed development would comprise a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the Edinburgh and the Lothians Structure Plan (ELSP) policy ENV3 and adopted Midlothian Local Plan (MLP) policies RP1 and ECON8.

2. As the application site is in the countryside it is not in one of the locations specified in the ELSP policy RET1 - Sequential approach to the location of retail and commercial leisure development, as being potentially suitable for retail developments. Accordingly, the proposed development is contrary to ELSP policy RET1 and the adopted MLP policy SHOP5.

3. It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead.

4. It has not been demonstrated that the retail complex could operate successfully without having a significant and adverse impact on road safety on the trunk road.

4.7 The applicant appealed the refusal of planning application **13/00370/DPP** to the Local Review Body (LRB). The LRB dismissed the review request and upheld the decision to **refuse** planning permission on the following grounds:

1. The proposed development would comprise a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the adopted Midlothian Local Plan (2008) policies RP1, SHOP5 and ECON8;

2. It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead; and

3. It has not been demonstrated that the retail complex could operate successfully without having a significant and adverse impact on road safety on the trunk road.

4.8 Planning application **14/00293/DPP** for the erection of four retail units (part retrospective) was **refused** by Midlothian Council's Planning Committee in September 2014 for the following reasons:

1. The proposed development would comprise a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the adopted Midlothian Local Plan (2008) policies RP1, SHOP5 and ECON8.

2. As the application site is in a remote countryside location it is not in one of the acceptable types of locations, as specified in the sequential town centre first approach identified in the Scottish Planning Policy. As no sequential test has been submitted for assessment it has not been

demonstrated, to the satisfaction of the Planning Authority, that the site is appropriate for the proposed use and that there are no other more sustainable or suitable sites which could accommodate the development more appropriately. Accordingly, the proposed development is contrary to the SPP, policy 3 of the Strategic Development Plan and policy SHOP5 of the adopted Midlothian Local Plan.

3. It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead.

4. It has not been demonstrated that the retail complex could operate successfully without having a significant and adverse impact on road safety on the trunk road.

- 4.9 This applicant appealed against the Planning Committee's decision to refuse planning application **14/00293/DPP**. The application was also **refused** at appeal by the Reporter on the 15 December 2014.
- 4.10 Application **14/00542/MSC** to discharge the conditions of the original 2008 application was **approved** in September 2014.
- 4.11 Pre-application advice was provided in December 2016 with regards to a development proposal seeking to erect a new building to incorporate a visitor centre comprising open retail space/retail units and a tourism facility. Overall, it was advised that it was unlikely that the development proposal would be supported.
- 4.12 The current application has been called to Planning Committee for consideration by Councillor Hackett to enable the Planning Committee to discuss a unique development which warrants deliberation and debate by the elected members.

5 CONSULTATIONS

- 5.1 **Transport Scotland** does not object to the planning application but do request that a condition be imposed seeking adequate visibility splays. This condition is required in order to maintain highway safety.
- 5.2 **Scottish Water** does not object to the development proposal. It was noted that the applicant should be aware that this does not confirm that the proposed development can currently be serviced.
- 5.3 The Council's **Policy and Road Safety Manager** does not object to the proposed development.

6 REPRESENTATIONS

- 6.1 One representation has been received. The representation supports the planning application. The representor believes that the development proposal would be beneficial to the local area and the building would be a visual improvement to the existing agricultural building. The representation can be viewed in full on the online planning application case file.
- 6.2 The agent hand delivered a petition containing 119 signatures collected from the cafe on the 13 September 2017. The petition has been taken into consideration as a representation despite it being submitted by the applicant's agent. A short covering statement was noted at the top of the petition stating that the Russell family (the applicant) would like support with their current planning application. The planning reference, site address and a short description of the proposal were also noted.

7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Plan (MLP), adopted in December 2008. The Proposed Midlothian Local Development Plan 2014 (MLDP) has been subject to an examination by the Scottish Ministers and was reported to the Council at its meeting of 26 September 2017 with a timetable to adopt the plan by the end of 2017. The Council approved the modifications proposed by the Scottish Government Reporter (with the exception of one proposed technical modification in relation to the Midlothian Science Zone) and referred the plan back to Scottish Ministers who have confirmed they are not going to intervene in the adoption of the plan. At the time of drafting this Committee report it is scheduled to report the MLDP to Council at its meeting of 7 November 2017 for adoption. As this plan is at a very advanced stage of preparation and represents the settled view of the Council it is a material consideration of significant weight in the assessment of the application. If the Council adopts the MLDP its policies shall supersede those in the MLP and will form the basis of the assessment of this application. The report identifies the relevant MLP policies in this section of the report but the assessment of the application is primarily against the policies in the MLDP because of its advanced stage. The following policies are relevant to the proposal:

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

- 7.2 The Strategic Development Plan sets out some key aims, three of which are:

- Integrate land use and sustainable modes of transport, reduce the need to travel and cut carbon emissions by steering new development to the most sustainable locations;
- Conserve and enhance the natural and built environment; and
- Promote the development of urban brownfield land for appropriate uses.

7.3 Strategic Development Plan policy **3: Town Centres and Retail** aims to promote a sequential approach to the selection of locations for retail and commercial leisure proposals.

7.4 Strategic Development Plan policy **8: Transportation** seeks to ensure that new development minimises the generation of additional car traffic.

Midlothian Local Plan 2008 (MLP)

7.5 The MLP policies relevant to the application which are to be superseded by the MLDP are:

- Policy RP1: Protection of the Countryside;
- Policy RP6: Areas of Great Landscape Value;
- Policy RP7: Landscape Character;
- Policy ECON8: Rural Development;
- Policy SHOP5: Major Retail and Commercial Leisure Development outwith Strategic Town Centres and Straiton; and
- Policy IMP1: New Development.

Midlothian Local Development Plan (MLDP)

7.6 Policy **RD1: Development in the Countryside** sets out where appropriate development would be acceptable in the countryside subject to defined criteria. The policy states that proposals will not be permissible if they are of a primarily retail nature.

7.7 Policy **TRC2: Location of New Retail and Commercial Leisure Facilities** is relevant to the siting of new retail and commercial leisure facilities. The policy and the role of centres are defined in the network of centres which give support to development in town centres, to Straiton where alternatives are not available in a town centre, and to a new out of centre location that is supported in the southern A7 corridor (Redheugh). Policy TCR2 also supports retail development (up to 1000sqm gross floor area) at local centres (these are identified in the network of centres). The policy also allows for new local centres to come forward serving housing developments where these are not served adequately by existing centres. There is no support for retail development in the countryside.

7.8 Policy **ENV6: Special Landscape Areas** states that development proposals will only be permitted where they incorporate high standards of siting and design and where they will not have significant adverse effect on the special landscape qualities of the area.

- 7.9 Policy **ENV7: Landscape Character** which advises that development will not be permitted where it may adversely affect the quality of the local landscape. Provision should be made to maintain local diversity and distinctiveness of landscape character and enhance landscape characteristics where improvement is required.
- 7.10 **The Scottish Planning Policy (SPP)** promotes a town centre first principle, which considers the health and vibrancy of town centres. The SPP promotes the use of the sequential town centre first approach, outlining the following order of preference for commercial development proposals:
- town centre (including local centres);
 - edge of town centre;
 - 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.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies, unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations. A significant material consideration in this case is the planning history of the site, particularly as the Council has consistently resisted the introduction of retail based development in this rural location. In addition, the Council's Local Review Body's decision to uphold the decision to refuse planning permission for retail units in this location is relevant. Furthermore, the Planning Committee have refused permission for retail development on this site and subsequently a Reporter appointed by the Scottish Ministers dismissed an appeal seeking permission for retail units in this location.

The Principle of Development

- 8.2 The applicant has stated in their statement supporting the planning application that the adopted plan is out of date. However, the proposed local development plan reiterates the same core principles as those contained within the current adopted local plan. Furthermore, the Council's adopted and emerging policies are reflective of the position taken by the Scottish Government in the SPP in the areas relevant to the development proposal. There is no policy support for retail development at this location.
- 8.3 The MLP and MLDP set the application site within an area identified as being the countryside and as such is covered by the Protection of the Countryside (RP1/RD1) policies.

- 8.4 The application site is located within a designated area of countryside and an area of great landscape value. The relevant policies of the development plan state that rural developments must demonstrate a requirement for a countryside location and take account of accessibility to public transport and services. In addition, development in the countryside must have an operational requirement for such a location that cannot be met on a site within an urban area or land allocated for that purpose, and it is compatible with the rural character of the area. The proposal neither requires a countryside location nor is compatible with the rural character of the area.
- 8.5 MLDP policy RD1 adds an additional restriction where proposals will not be permissible where they are of a primarily retail nature (this restriction is contained within policy ECON8 of the MLP).
- 8.6 In relation to the information submitted by the applicant, it is noted on the indicative floor plan that the retail unit will be open plan and may comprise a delicatessen, ice cream parlour, bakery, butchers, green grocer, newsagent/gift shop, clothing, gifts and crafts and a tourist information area. No business case or supporting statement has been submitted to justify the current application or demonstrate the viability of the proposed development. The applicant has not offered an operational need for a countryside location in order to justify the development. The indicative retail uses are those commonly found in town centres or neighbourhood centres and as such are not appropriate to a rural countryside location.
- 8.7 Scottish Government Policy and the Strategic Development Plan seeks a sequential approach to the siting of new retail facilities which means that they should be located in accordance with the following priorities, depending on the availability of suitable opportunities within the expected catchment area of the proposed development: a) within a town centre; failing that b) on the edge of a town centre, or significantly close to form an effective extension to the centre; failing which c); within another shopping location of an appropriate size, character and function, including major shopping centres; failing which d) on the edge of such established shopping locations referred to in c), or sufficiently close to form an effective extension; failing which e) elsewhere within an existing or planned urban area defined in the local plan. The application site is outwith the sequential hierarchy and therefore has no support by national policy or development plan policy.
- 8.8 Generally, it would be expected that retail activities are sited within the town centres in Midlothian. Town centres are the sustainable option for retail activities given that they have the best access to public transport and greater footfall. Following the sequential approach ensures that development is guided to appropriate, sustainable and viable sites which support the community and economic growth in a logical and sustainable way. Retail developments, like the proposal, in rural

locations undermine the sense of community and economic benefits which are delivered by a vibrant town and neighbourhood centres.

- 8.9 The site is not in a town centre, Straiton or at the new retail opportunity location in the Redheugh area. Soutra Farm is not one of the Council's identified local centres, and nor does the site meet the criteria to be identified as a new local centre. The siting of the proposed retail unit fails the sequential test.
- 8.10 The footprint of the proposed development is less than the scale at which Midlothian Council would normally require Retail Impact Assessment (RIA) to be carried out, although the MLDP does allow for a RIA to be undertaken for smaller proposals (para. 4.6.5). In the circumstances, the Planning Authority considers that a RIA is not necessary. The purpose of a RIA is to ensure that proposals conforming with the sequential approach meet qualitative and quantitative deficiencies and can be implemented without undermining town centres. A RIA could not be used as a justification to over-ride the need to apply the sequential approach.
- 8.11 Within the applicant's supporting information, it is noted that there is a demand for the proposed development from the local community and business people. It is stated that there are eight local home businesses, which employ 8-15 people and would require additional staff numbers that are interested in re-locating to the newly proposed retail unit. The applicant estimates that the development would result in 25 permanent jobs at the site. However, there is no evidence submitted to support these statements. No information has been provided regarding the exact location of the existing businesses seeking to move to the application site; their current employment status; the viability of the existing home businesses; whether the businesses have sought out alternative premises in local town centres; and whether these business people have considered the long term viability of operating a retail business in such a rural location. Furthermore it is unlikely that the uses identified in paragraph 8.6 are currently operating from existing residential properties.
- 8.12 It is unlikely that any form of retail development could be successfully argued to have an operational requirement to be located at Soutra, other than some form of agricultural-related sales of a scale compatible with the farm. There is no operational requirement for a retail unit of this scale to be located at Soutra. The confirmed national, regional and local policy position is that these types of retail units should be located within existing retail centres, helping deliver sustainable economic development and contribute to existing town centre and retail centre viability.
- 8.13 That policy position is predicated on the assessment that the type of development proposed in this application, if supported, could readily undermine the viability and vitality of Midlothian's town centres to the

detriment of existing business and jobs. This type of retail development, which has no operational requirement for being in the countryside, attracts typical town centre uses away from the town centres in to areas where operating costs, such as rent, can often be lower. This also encourages users to avoid shopping within existing town centres.

- 8.14 The application site does not benefit from good public transport links. In addition, the proposed development will potentially generate significantly increased levels of journeys by car. This is an unsustainable form of development and is contrary to the aims of sustainable development as pursued by the Scottish Government and Midlothian Council, through planning policy.
- 8.15 The proposed development has not demonstrated, to the satisfaction of the Planning Authority, that there is a requirement for a countryside location for this development. Accordingly, the application proposal is contrary to policy RP1 of the MLDP.
- 8.16 Policy ECON8 of the MLP and policy RD1 of the MLDP both state that development will not be approved in rural areas where it is primarily of a retail nature. This application relates solely to the erection of a large retail unit and is, therefore, not in compliance with policy ECON8 of the MLP and policy RD1 of the MLDP.
- 8.17 Planning policies do support some forms of farm related diversification, including the possibility of a farm shop selling goods grown or produced on the farm. However, it is not evident that a retail development of this scale would be viable, nor has it been demonstrated that the proposed development in this case constitutes farm related diversification. The proposal is a speculative retail proposal in the countryside, for which there is no policy support and a planning history consistently resisting such a development.
- 8.18 As noted in paragraph 4.9 above a Scottish Government Reporter dismissed an appeal for the erection of four retail units of a smaller scale than the current proposal at the application site in 2014. The three main issues previously considered by the Reporter with regards to the earlier retail proposal were in relation to the effect of the proposed shops on the vitality and viability of nearby town centres; the operational requirement by means of the sequential approach and the impact upon road safety.
- 8.19 The applicant has not addressed these reasons for the previous application being refused and dismissed at appeal.

Transport

- 8.20 A supporting transportation assessment was submitted along with the application which provided an assessment of the development proposal

in terms of road safety. The supporting transportation assessment noted that the appropriate junction visibility splay, for the speeds past the site, is 160 metres for traffic going south, and 210 metres for traffic going north. Transport Scotland has identified the requirement for sightlines measuring 215 metres in each direction. The applicant has not demonstrated that visibility splays of this distance can be achieved.

Indicative drawings

- 8.21 The application was accompanied with an indicative layout and design for the proposed retail unit which is of a large and imposing scale in comparison to the farmhouse, dwelling, holiday cottages and cafe. The design approach appears to give the impression of a steading which would be more appropriate to a larger, grand country house rather than the more modest farmhouse at Soutra.
- 8.22 Supporting statements were included with the application which included visualisations and design rationale. The existing agricultural shed, which is sought to be replaced, clearly reads as part of Soutra Mains Farm which contributes towards the agricultural appearance of the site. The proposed retail development fails to visually connect to the existing buildings through the form, scale, design or siting.
- 8.23 Within the design and access statement comparisons have been made to Mortonhall Stable Block, Newhailes Block conversion and Castlemilk Stable Block; all of which are of a grander scale associated with estates. It remains unclear what the design rationale is for the choice of materials, including the horizontal split on the end features on the front elevation. In this area these types of buildings are almost exclusively built and finished with natural stone. The pitches on some of the roofs look very shallow, perhaps incapable of accommodating a traditional roofing material.

Biodiversity

- 8.24 The submitted ecology report noted that there is no sign of any protected species being present on site. Badger and Otter have been recorded nearby but there is no evidence of them on site. There is also no evidence of any bat species roosting on site. The design of the current building offers negligible bat roosting opportunities so there is no reason to consider bat surveys. There are no concerns with regards to protected species in relation to the development proposal.

Conclusion

- 8.25 The policies of the development plan are intended to be applied consistently in order to give applicants and developers certainty with regards to the potential outcome of planning proposals in principle. Departing from the adopted policies undermines the effective

implementation of the policies and wider aims of the Council as local planning authority as established in its adopted development plan.

- 8.26 While the Planning Authority supports businesses in Midlothian, development needs to be sited in appropriate locations and comply with the policies of the development plan. This proposed development does not comply with the aims of the Council, most particularly in supporting and promoting viable and economically healthy town centres, as expressed in the MLDP. Furthermore, there is insufficient evidence to suggest that the potential economic benefit as a result of the development should be considered a significant material consideration which would outweigh the policy position.

9 RECOMMENDATION

9.1 That planning permission be refused for the following reasons:

1. *The proposed retail development would comprise of a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the adopted Midlothian Local Plan (2008) policies RP1, SHOP5 and ECON8 and the proposed Midlothian Local Development Plan (2014) policies TRC2 and RD1.*
2. *As the application site is in a remote countryside location it is not in one of the acceptable locations, as specified in the sequential town centre first approach identified in the Scottish Planning Policy. As no sequential test has been submitted for assessment it has not been demonstrated, to the satisfaction of the Planning Authority, that the site is appropriate for the proposed use and that there are no other more sustainable or suitable sites which could accommodate the development more appropriately. Accordingly, the proposed development is contrary to the SPP, policy 3 of the Strategic Development Plan, policy SHOP5 of the adopted Midlothian Local Plan (2008) and TRC2 of the proposed Midlothian Local Development Plan.*
3. *It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead.*
4. *It has not been demonstrated to the satisfaction of the Planning Authority that the required visibility splays (215 metres in each direction) can be achieved.*
5. *The indicative information submitted shows a building which, on account of its scale, form, design and materials will not be compatible to its location or to existing nearby buildings.*

Note – if the Midlothian Local Development Plan is adopted at the Council meeting of 7 November 2017 the reasons for refusal shall be amended to remove reference to those policies in the Midlothian Local Plan 2008 and the Proposed Midlothian Local Development Plan shall be referred to as the Midlothian Local Development Plan 2017.

Ian Johnson
Head of Communities and Economy

Date: 7 November 2017

Application No: 17/00641/PPP

Applicant: Mr George Russell (Jr)

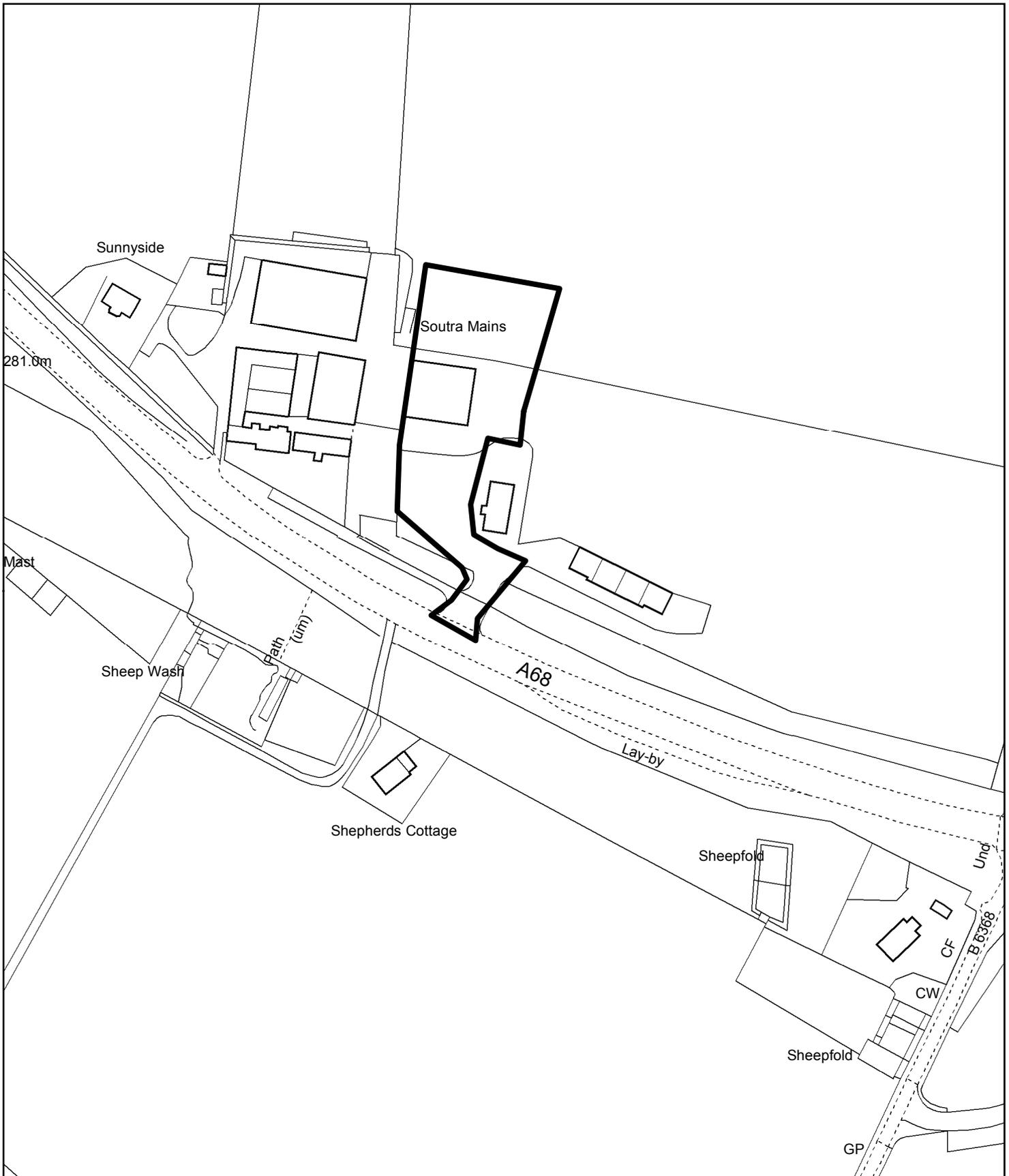
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Validation Date: 11 August 2017

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