

## **Notice of Review: Land North West of Melville Gate Road, Dalkeith**

### **Determination Report**

Report by Ian Johnson, Head of Communities and Economy

#### **1 Purpose of Report**

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' regarding the non-determination of planning application 17/00587/DPP for the erection of residential care home with associated access, car parking, landscaping and works at land north-west of Melville Gate Road, Dalkeith.

#### **2 Background**

- 2.1 Planning application 17/00587/DPP for the erection of residential care home with associated access, car parking, landscaping and works at land north-west of Melville Gate Road, Dalkeith has not been determined within the statutory time periods (2 months as extended by agreement) and as such the applicant has exercised their rights to request the LRB to determine the application.
- 2.3 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
  - 2 The Registration and Acknowledgement of the Notice of Review.
  - 3 Carrying out Notification and Consultation.

#### **3 Supporting Documents**

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
  - A copy of the applicant's hearing statement (Appendix B);
  - A copy of the case officer's report - hearing statement (Appendix C); and
  - A copy of the relevant drawings/plans (Appendix D).
- 3.2 The full planning application/review case file, including the documents referenced in the applicant's submitted 'document list' and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk).

#### **4 Procedures**

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have scheduled an accompanied site visit for Monday 21 May 2018; and
  - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that eight consultation responses and one representation were received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All the comments can be viewed online on the electronic planning application/review case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
  - Consider whether or not the proposal accords with the development plan;
  - Identify and consider relevant material considerations for and against the proposal;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 The specified matters that the LRB should consider are:
- The principle of development within a Class 4 business allocation;
  - The proposed siting of a residential care home outwith an established residential area/community and its proximity to local services and facilities;
  - The layout and form of the development;
  - The design of the proposed buildings and structures;
  - The boundary treatment and landscaping; and
  - The access.
- 4.5 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.6 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.7 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, and without prejudice to the determination of the review, the following condition has been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.

1. Development shall not begin until a revised scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i existing and finished ground levels and floor levels for all buildings and roads in relation to a fixed datum;
  - ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
  - iii proposed new planting including trees, shrubs, hedging and grassed areas;
  - iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
  - v schedule of plants to comprise species, plant sizes and proposed numbers/density;
  - vi programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping shall be completed prior to the buildings being occupied; and
  - vii drainage details and sustainable urban drainage systems to manage water runoff.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird nesting season (March-August) and bat roosting period (April – September).

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

2. Development shall not begin until temporary protective fencing is erected around all trees on the site to be retained. The fencing shall be positioned in circumference to the trunk at a distance from it which correlates to the trees canopy unless otherwise agreed in writing with the local planning authority. No excavation, soil removal or storage shall take place within the enclosed area.

***Reason:*** To ensure the development does not result in the loss or damage of a tree which merits retention in accordance with policy ENV11 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.

3. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. Development

shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *In the interest of protecting the character and appearance of the conservation area so as to comply with policy DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

4. Development shall not begin until details of the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
  - ii proposed vehicular, cycle and pedestrian access;
  - iii proposed roads (including turning facilities), footpaths and cycle ways;
  - iv proposed visibility splays, traffic calming measures, lighting and signage;
  - v proposed construction traffic access and haulage routes;
  - vi a green transport plan designed to minimise the use of private transport and to promote walking, cycling and the use of public transport;
  - vii proposed car parking arrangements, including visitor parking; and
  - viii a programme for completion for the construction of access, roads, footpaths and cycle paths.

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

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

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

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

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

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

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

7. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

8. Development shall not begin until details of the provision and use of electric vehicle charging stations throughout the development have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

9. Development shall not begin until a programme of archaeological works (Trial Trench Evaluation) has been completed in accordance with a written scheme of investigation. The approved programme of works shall comprise a field evaluation by trial trenching reported upon initially through a Data Structure Report submitted to the planning authority and carried out by a professional archaeologist prior to any construction works or pre commencement ground works taking place. There shall be no variation therefrom unless otherwise agreed in writing by the planning authority.

**Reason:** *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with*

10. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of bricks and boxes for bats and swifts throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

## **6 Recommendations**

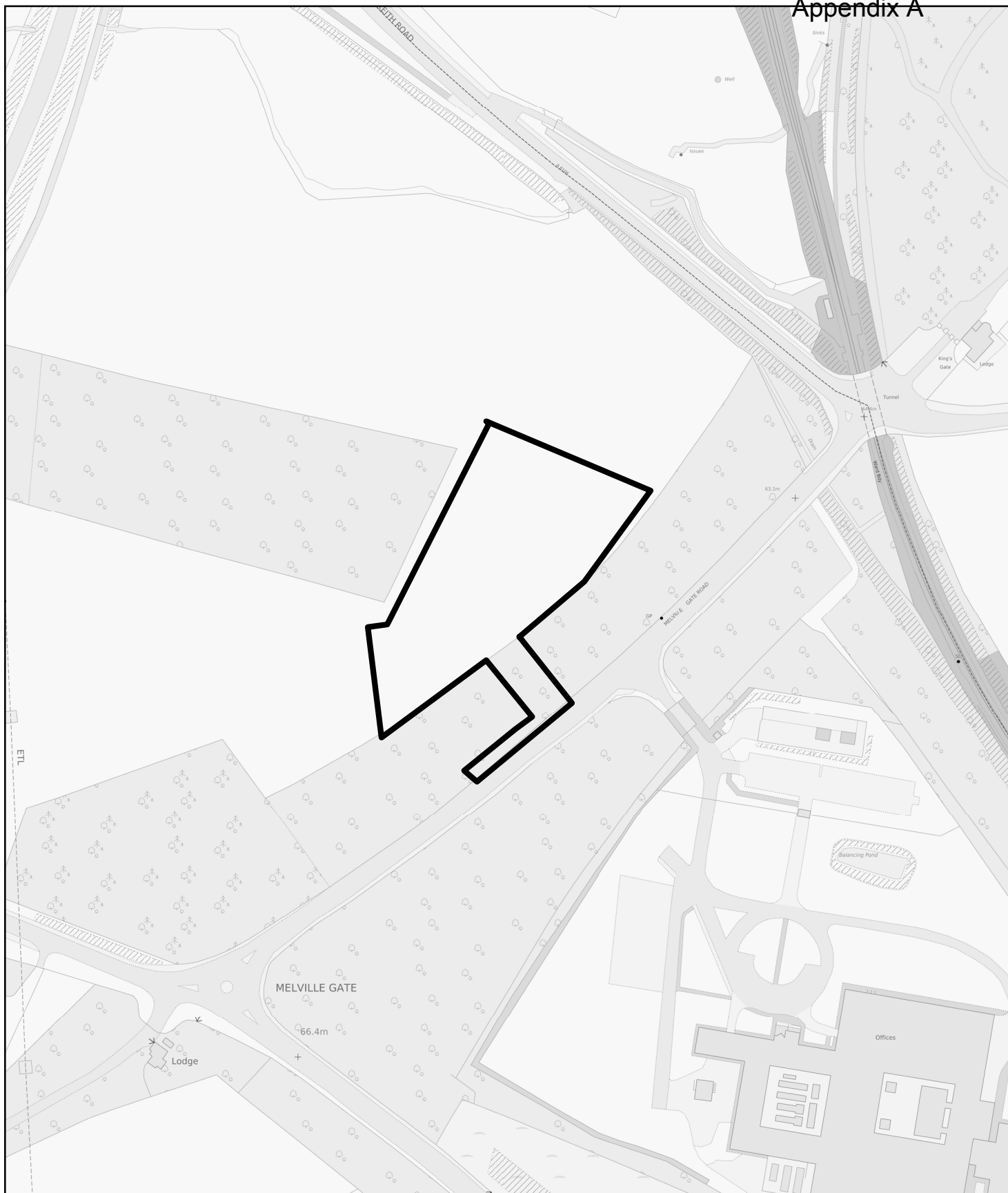
- 6.1 It is recommended that the LRB:
  - a) determine the review; and
  - b) the planning advisor draft and issue the decision of the LRB through the Chair

**Date:** 15 May 2018

**Report Contact:** Peter Arnsdorf, Planning Manager (LRB Advisor)  
peter.arnsdorf@midlothian.gov.uk

**Tel No:** 0131 271 3310

**Background Papers:** Planning application 17/00587/DPP available for inspection online.



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

Erection of residential care home with associated access, car parking, landscaping and works at Land North West Of Melville Gate Road, Dalkeith

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# Local Review Body Hearing Statement

PLANNING APPLICATION 17/00587/DPP  
MAY 2018

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PREPARED BY COLLILERS  
INTERNATIONAL

PREPARED FOR MONTPELIER  
ESTATES/BUCCLEUCH PROPERTY



**COLLIERS INTERNATIONAL PROPERTY CONSULTANTS LIMITED**

Company registered in England and Wales no. 7996509

Registered office:

50 George Street

London W1U 7GA

Tel: +44 20 7935 4499

[www.colliers.com/uk](http://www.colliers.com/uk)

Colliers International

1c Exchange Crescent

Conference Square

Edinburgh

EH3 8AN

Tel: +44 131 240 7500

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## SUMMARY

A Class 8A care facility in the form of a two-building step-down care pathway approach is proposed on what is an allocated development site at Sheriffhall South. Montpelier Estates aim to develop the site for this much needed facility, while the operations will be by third party operator working in partnership with the NHS.

The proposals were discussed with the planning authority at informal pre-application stage in April 2017. The application was lodged in July 2017 and remained pending until March 2018 when the decision was taken to appeal on the grounds of non-determination.

The Local Development Plan does not allocate any site across the whole of Midlothian for a facility such as that proposed. However, there is an identified need for this type of development in this area. At present, those seeking to make use of such services travel to Glasgow and Ayr. Policy IMP4 of the Plan, Health Centres, states:

*"The Council supports the development of new or extended health centre facilities where there is an identified need to enhance healthcare services within a community."*

Economic growth is central of the aims and objectives of the adopted Local Development Plan. Scottish Planning Policy acknowledges that economic growth is key to unlocking potential and delivers benefits which include addressing matters of health and the creation of a supportive business environment. The site can be adequately serviced and accessed. Full technical and design information has been submitted as part of the application.

The site has been earmarked and marketed to potential class 4 and 5 users for a period of over 10 years with no take up. The marketing of the site has been described in detail as part of the application process. There has been interest from retail developers, residential developments, storage developers, dog walkers, soft play and stables. There have been no planning applications on the site in a period of 16 years, as far as can be determined from the public planning portal.

The proposed class 8A use is one which is not in the experience of the appellant or agent ever allocated for in a Development Plan. It is the case therefore that such proposals are always contrary to the planning policy framework in existence. While the land use may differ from that allocated in a Plan, the other merits of the proposal must therefore be given full consideration and due weight.

Irrespective of use classes, the development will generate both employment and investment. Circa 122 jobs will be created. Associated jobs from construction and spin-off impacts are also likely. proposal will invest circa £11m into the local economy. From experiences elsewhere the likely spin-off trade with local businesses would be in excess of £425,000 per annum.

The application has been live for over 10 months now, with limited dialogue on the merits of the case with the case officer. We respectfully request the Local Review Body take cognisance of all aspects of the development proposal in the course of this Review.



# 1 INTRODUCTION

## 1.1 INTRODUCTION

This Hearing Statement has been prepared by Colliers International on behalf of Montpelier Estates /Buccleuch Property (Sheriffhall South) Ltd in support of their request that the planning authority review the application under the provisions of Section 43A of the Town and County Planning (Scotland) Act 1997.

This Statement should be read in conjunction with the supporting information lodged.

Those parties participating at the hearing session are:

- John Horsman, Montpelier Estates (appellant)
- James McGarry, Montpelier Estates (appellant)
- Meabhann Crowe, Colliers International (planning agent)

## 2 PROPOSALS SUBJECT TO REVIEW

### 2.1 INTRODUCTION

On 17<sup>th</sup> July 2017 the appellant lodged a planning application (reference 17/00587/DPP) with Midlothian Council for the erection of a Class 8A low secure facility at Sheriffhall South, Midlothian. (MEDOC01)

The application was duly registered and validated on the 24<sup>th</sup> July 2017 and 25<sup>th</sup> July 2017, respectively. A letter of acknowledgment was issued by Midlothian Council on the 2<sup>nd</sup> August 2017.

### 2.2 APPELLENT

Montpelier Estates are seeking planning permission for the erection of a Class 8A low secure facility at Sheriffhall South, Midlothian. Montpelier Estates have been established for over 20 years and operates solely in the healthcare sector. They have, to date, provided over 1,000 specialist care beds and approximately double that figure in care of the elderly.

### 2.3 NEED AND SITE SELECTION

Montpelier Estates have, in liaison with the selected operator, determined that a need exists within the wider Midlothian area for a Class 8A low secure care facility.

Having considered and evaluated numerous other sites the subject site has been selected as it can meet this identified need in an appropriate manner and in a sustainable location, in close proximity to where that need stems from. It is best for all parties, the patient, their family and friends and the funder (NHS) if care delivered in close proximity to the user group. This allows families, friends and the patients extended clinical team easier access to visit and support those in care. It also allows for staffing to, in the main, be sourced locally and a more cost effective and economic delivery of that service.

The operators main focus will be to attract and employ local community staff and initiate an educational programme to train and secure the necessary specialist skills/staff for the successful and long term operation of the facility.

The facility will employ local staff with just a few managerial roles attracting specialist skills. These people will relocate into Midlothian and also therefore become locals.

Due to the 24-hour operation of the facility shift flexibility allows a wide range of working patterns. Particular attention is given to young working mothers whose family commitments can be accommodated by the amount of hours they work and when they work. Equally, there is a very broad range of skills required from cleaning, hotel services and care through to highly trained and experienced clinicians and management.



The hospital will seek to work in conjunction with local education institutions to provide a direct link to practical training. It will also provide direct training, offering the opportunity for staff to progress within the organisation and educational outreach to the community, police and schools.

## 2.4 SITE CHARACTERISTICS

The application site (i.e. the red-line boundary MEDOC1) is located within an agricultural field immediately north-east of the Gilmerton Roundabout. The application red-line boundary is 0.92ha in size.

The site comprises agricultural land.

There are no watercourses on the site.

There is no existing access into the site.

The wider site is relatively flat, falling gently to the north towards the Dean Burn which runs to the north.

The wider site is bound by the A7 to the west, and the B6392 Gilmerton Road to the south. Melville Gate Road runs to the east and the Dean Burn to the north, beyond which lies the A68 Old Dalkeith Road.

Tree belts exist within the wider site, to the west, east and middle of the site.

To the west, lies the Elginhaugh Farm (restaurant/public house with associated living accommodation). To the south-west lies Dobbies Garden Centre, the Melville Inn public house and restaurant and Edinburgh Butterfly World. Land immediately south of the site, across the B6392, is vacant farmland with Melville Castle lying slightly further east.

The application site is nestled in the south-east corner of the wider site, bound by a treebelt to Melville Gate Road to the east and a second to the south, beyond which runs the B6392 Gilmerton Road.

## 2.5 SITE HISTORY

The site forms part of a larger land parcel that has been marketed for development since 2009 (MEDOC02) are the original 2009 brochure and the updated version from 2015. Marketing boards have existed on the site since May 2009 also. 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 use has been limited with occupiers tending to prefer to locate closer to the City of Edinburgh or at West Edinburgh. The marketing agents Montague Evans have confirmed that the majority of interest in this site has come from outwith Class 4 uses sectors i.e. non-office developers/occupiers. There have been no planning applications on the site in the last 16 years, as far as can be determined from the public planning portal.

## 2.6 DEVELOPMENT PROPOSALS

The proposal is to develop a Class 8A low secure care facility, together with associated access, parking, landscaping and works.

The proposal is a two-phase hospital development, operated by an experienced care provider. Most patients will suffer from some form of physical and/or mental impairment and will have care needs of varying degrees. The 'step down' and care pathway approach to the patients care needs is reflected in the two buildings within the scheme, which responds to and reflects the patients progress towards repatriation. The objection is always patient recovery with their return to their family as a functioning and integrated member of society.

The development comprises two care buildings within the site – Phase A and Phase B (MEDOC01). The layout of the scheme has been arrived at through careful consideration of the site and facility requirements. The Phase A building is located in the northern section of the application boundary, with the Phase B building located in the southern section.

Building Details	Phase A Building	Phase B Building
GFA (m <sup>2</sup> )	2,477.64m <sup>2</sup>	2,105.06m <sup>2</sup>
Floors	2 (ground, first)	3 (lower ground, ground, first)
Bedspaces	32	36
Enhanced Care Bedspaces	2	2
Car parking spaces	61 (including 6No disabled bays)	
Cycle parking spaces	6	
Refuse spaces	1	1

The Phase A building comprises ground and first floors. It is orientated to face the central parking area. The main entrance from the car park leads to the main reception area beyond which is located a variety of care facilities including gym, art room, café, therapy room, and secure visitors lobby. The western and northern wings of the building house a range of facilities including the main accommodation space, seclusion and enhanced care areas, dining and recreation area, lounge area, clinic and nurses station. 32 one-person bedrooms are proposed within the Phase A building. Communal and private garden space exist around the building, with small hardstanding patio areas. This building is surrounded by a weld mesh 4m hi-sec fence, which provides the secure line to the building entrance.

The Phase B building comprises lower ground, ground and first floors. The building is orientated to face the central car park, with access being taken from this area. The building is also enclosed however here by a slightly lower 2m high timber fence, reflecting the step-down to a lower form of secure facility. The lower floor contains the entrance lobby, offices, meeting room, kitchen and staff lounge. The laundry,



patient store, kitchen store and service/waste area is also located on this floor. At ground floor level, 19 bedrooms are provided, along with day space, recreation space, nurses station, enhanced care area, kitchen and multifunction room. The day space/breakout area opens out into the communal garden area to the west of the main building, which as noted earlier is secure by a 2m timber fence. The building accommodates 36 bedspaces, plus 2 enhanced care bedspaces, therefore 38 in total.

The scheme is built around a central parking area, with a total of 61 parking bays and 6 cycle spaces proposed.

Main entrances to each building are taken from this central parking area, north and south. The new site entrance formed off Melville Gate Road will include a new footpath, which will extend along the lower portion of Melville Gate Road to the existing bus stop.

Along the new entrance several existing trees have to be removed, however the loss is considered minimal in that only 29 trees will be removed in total, and tree planting is proposed as part of the wider scheme. The existing treebelts on the site have been used positively to create a setting for the facility, allowing it to be located within the existing mature landscape environment providing a sense of establishment, belonging and maturity.

The hospital will operate 24hrs, and staff will work over three shift patterns. Particular attention is given to young working mothers whose family commitments can be accommodated and those who can work for short periods within a flexible and job share employment rota.

Most traffic movement will be off peak and deliveries will be via van and small transport vehicles. Cycling to and from work will be encouraged and a bicycle grant scheme will be in place for staff to further support wellbeing through exercise and reduction of environmental impact.

## 3 REVIEW REQUEST

### 3.1 INTRODUCTION

The applicant moved to take the planning application 17/00587/DPP to Midlothian Council's Local Review Body (LRB) on 8<sup>th</sup> March 2018 on the grounds of non-determination (MEDOC03). This follows the Council's lack of decision making on the application in a timely, efficient manner despite numerous extensions to the determination period and no known issues from statutory consultees or significant public objection.

The development proposed is deemed 'local' in terms of the development hierarchy therefore a decision was expected in a 2-month period. The appellant has incurred significant delays and costs during this process. Equally important, the protracted process has resulted in substantial delay to much needed care services and employment in the area.

The appellant contends that the planning authority have consistently failed to deliver in respect of this proposal, which was expected to be on site in early 2018. They have, on numerous occasions as demonstrated here, attempted to work with the authority around workloads and capacity, however the lack of engagement, feedback or progress with the application has lead them to seek a decision from the Local Review Body.

A timeline of the application is set out below:

<b>July 2017</b>	Application lodged
<b>August 2017</b>	Application progress
<b>September 2017</b>	End of 2-month determination period. Extension until 13 <sup>th</sup> October 2017
<b>October 2017</b>	Extension until 27 <sup>th</sup> October 2017; Extension until 17 <sup>th</sup> November 2017
<b>November 2017</b>	Extension until 4 <sup>th</sup> December 2017
<b>December 2017</b>	Extension until 20 <sup>th</sup> February 2017
<b>January 2018</b>	Meeting with authority
<b>February 2018</b>	No extension agreed/sought on basis of application going to committee 3 <sup>rd</sup> April 2018
<b>March 2018</b>	Application scheduled for committee 3 <sup>rd</sup> April 2018; Agenda due 23 <sup>rd</sup> March 2018. Phone call 7 <sup>th</sup> March from MLC stating application now delegated. Decision to appeal lodged with MLC
<b>April 2018</b>	Review procedure altered to Hearing Session
<b>May 2018</b>	LRB site visit and Hearing Session scheduled

10 Months, 5 extensions

## 3.2 REVIEW PROCEDURE

The appellant sought to secure review via a combination of procedures (MEDOC03). Following receipt of the letter of procedure deemed appropriate by the authority (MEDOC04) which was a site visit and written submission, it was requested (MEDOC05) that the authority reconsider the proposed procedure for the following reasons:

- *There has been extremely limited dialogue with the planning authority in respect of the application, the majority of which took place in 2018 long after the targeted timescales, despite the planning application being lodged in July 2017.*
- *It is held that the type of development proposed is so specialist that it requires to be fully explored through a round-table hearing session. This is the most transparent and robust means by which the full merits of the proposed development can be translated to members of the Review Body.*
- *It is imperative that for the Review Body to determine the Review they give full consideration to the Development Plan but also material considerations. To that end the Review Body is considered to have a duty to comprehend the full details of this proposal, the need it responds to, and its contribution to the whole of the region both in terms of mental health services and in terms of economic impacts; matters which can only be explained in full via a hearing session.*

The authority subsequently confirmed that the Review could now proceed by way of a hearing session (MEDOC06).

## 4 GROUNDS OF REVIEW

### 4.1 TIMESCALES

The Review is lodged on the basis of the authority's failure to determine the planning application in the prescribed timescale as set out in Section 43A of the Act. The last agreed extension of time elapsed on the 21<sup>st</sup> February 2018.

It should be noted that the original timescale for determination of this 'local' planning application was 25<sup>th</sup> September 2017.

In total 5No extensions to this date were agreed between the appellant and authority (MEDOC03). These are set out below.

- 25<sup>th</sup> September 2017 – 13<sup>th</sup> October 2017
- 13<sup>th</sup> October 2017 – 27<sup>th</sup> October 2017
- 27<sup>th</sup> October 2017 – 17<sup>th</sup> November 2017
- 17<sup>th</sup> November 2017 – 4<sup>th</sup> December 2017
- 4<sup>th</sup> December 2017 – 20<sup>th</sup> February 2018

#### 4.1.1 EXTENSION 01

The first extension to the determination period was agreed on the 21<sup>st</sup> September to run until the 13<sup>th</sup> October. At this stage, the appellant had received no feedback in respect of consultees received - Landscape, Scottish Water, Environmental Health and SNH. Consultations from Transport, Economic Development and Archaeology remained outstanding.

#### 4.1.2 EXTENSION 02

The second relatively short extension was agreed until the 27<sup>th</sup> October. It was noted to the authority that a significant amount of time had passed and no feedback was received to allow the appellants to understand the content of the majority of the consultation responses (Landscape, Scottish Water, Environmental Health and SNH). Feedback was expected w/e 20<sup>th</sup> October, as intimated by the authority.

#### 4.1.3 EXTENSION 03

Following an email of the 24<sup>th</sup> October to the case officer no feedback was received. On the 26<sup>th</sup> October it was suggested that in the absence of any feedback or dialogue a further extension until 17<sup>th</sup> November was believed necessary. In an email to the case officer of 15<sup>th</sup> November 2017 it was highlighted that very little feedback had been received and the project team were not aware of issues with the application delaying it from being progressed to decision.



#### 4.1.4 EXTENSION 04

It was proposed by the case officer on the 17th November 2017 that there was time allocated to review the application and revert. Later that same day, the case officer suggested a further extension was required until 4<sup>th</sup> December 2017 and noted that *"I anticipate that I will be in a position to report on all three applications by that date."*

During this period the authority made known their view that they may not be in a position to support the proposals. On the 28<sup>th</sup> November 2017 the appellant consequently wrote to the authority setting out again their case and disappointment at learning this news (MEDOC03).

It was at this point in time that the appellant also sought to engage with local councillors. Letters from appellants to planning authority and local councillors (email 29<sup>th</sup> November 2017) (MEDOC07)

#### 4.1.5 EXTENSION 05

On the 1<sup>st</sup> December 2017 with little to no feedback on the application the appellant offered a further extension until the 20<sup>th</sup> February 2018. This aligned with a targeted committee date of the 20<sup>th</sup> February which we anticipated being achievable given the Christmas break.

## 4.2 COMMENTS ON THE APPLICATION

### 4.2.1 STATUTORY CONSULTTEES

Consultation responses were requested from the authority as follows:

- Council Transportation
- Council Landscape
- Scottish Water
- Scottish Natural Heritage
- Environmental Health
- The Coal Authority
- Council Archaeologist
- Council Economic Development

Ultimately the following consultee responses were received to the application, summarised as: (MEDOC08)

- Scottish Natural Heritage – No objection. Conditions regarding a pre-construction survey for badgers; also a preliminary ground level bat roost assessment for bats once trees are felled/pruned.

- Environmental Health – No objection. Conditions regarding contamination and an air quality assessment.
- Roads Section – No objection. Conditions regarding vehicle access and visibility splays; SUDS; bus shelter detail; a Section 75 agreement.
- Coal Authority – No objection, Material Consideration. Condition for intrusive investigations and remedial works prior to commencement of development.
- Scottish Water – No objection.
- Scottish Environmental Protection Agency – No objection.

A response was noted from the Councils Economic Development Officer (dated 24<sup>th</sup> August 2017) however as it contained the reference '537DPP' and noted retail elements, we understand this does not relate to this application. (MEDOC08)

Subsequently, in preparing for this Review, the economic development section has responded citing several points and ultimately recommending refusal (MEDOC09). However, this was not raised prior to the Review notice being served and was not translated to the appellant in any way while the application was still pending. The response is not considered admissible and we have noted such to the authority (MEDOC09) (without response). However, for completeness should the LRB consider it relevant, we would respond as follows:

- The land is zoned for employment; this development will generate employment
- We have no evidence from the site owner or marketing agents to indicate that the popularity of the site for class 4 use is as deemed by the economic section.
- We have had no information from the authority despite requests to demonstrate a shortage industrial sites. Even if this is the case, our intel from industrial agents is that such occupiers are seeking to locate on main major travel routes and that speculative build is low; this is the market scenario.
- We welcome the acknowledgement that employment uses here could be accessed relatively easily.
- The Borders Railway does not run close to this site.
- The type of unit noted in the response is of no consequence if there is no speculative build taking place.
- We have no evidence to confirm a shortage of office space in Midlothian. Again, other areas are we understand proving more popular with those seeking to locate and to erect office accommodation which would generate the same number of jobs as the development proposal here, would mean a speculative build of circa 15,000sqft. This is simply not realistic.
- MLC suggest a lack of inward investment to Midlothian due to a lack of suitable sites which is somewhat ironic in the current circumstance where the authority is seeking to dissuade investment on what is a vacant site.



- The claim that any highly skilled jobs would not be filled from Midlothian is simply not accepted. Nor is it a land use consideration. Relative to a committed allocated development site which should have been generated employment for circa 10 years now, this is a strange argument for the authority to pursue.

#### Response to Consultee Comments

Ultimately then it is demonstrated that there are no statutory consultee objections to the application. The conditions suggested are considered to meet the terms of the Circular and the appellant is content to accept these.

#### 4.2.2 PUBLIC COMMENT

During the period for comments on the application, no representations were made by members of the public. In November 2017 one objection was noted as follows:

*"Miss H Tibbetts (Objects) - Comment submitted date: Wed 22 Nov 2017*

*I wish to object to this application on the grounds that it 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). Furthermore the proposed development would have a detrimental effect on the area's wildlife, something that developers never take into account. The area is known to be home to populations of badger, deer and fox. Wiping out these populations, or at the very least the destruction of their precious habitat, would be a great loss not only for them, but for Midlothian's residents."*

#### Response to Objection Lodged

The site lies within a larger development parcel (e32). The site is within the green belt however is proposed for business/industry development. The Council have, therefore, by virtue of the development allocation removed the constraint on development in this location by the greenbelt designation per paragraph 52 of SPP which sets out that LDPs should describe the type and scale of development which would be appropriate within the green belt.

A Phase 1 Habitat Assessment and Badger Survey has been carried out for the application site. The site is found to be of low or moderate value overall, comprising an arable field area of low value and marginal land. The arable land around the application site was considered of overall low value to most taxa. The crop field is of no significant value to any species except for common bird species in winter and possibly a small number of wintering species. The woodlands adjacent, subject of a separate tree survey, was considered of high value in themselves for faunal species. However, no rare or notable plant species were recorded during the surveys. No active badger setts were found on the site or in adjacent woodlands. Disused setts were recorded in the woodlands and these are considered abandoned given the level of informal recreation nearby such as dog walking, camping and mountain biking. The removal of some trees under the proposal, necessary to create the new access into the site, may impact on bat and bird species in terms of roost removal,

loss of nesting habitat and foraging. The proposals also however include planting which could create ecological value on the site which could compensate or add value. Potential impacts are considered to be minor or moderate in nearly all instances except mature trees in relation to possible bat species, and measures are given in the specialist reports accompanying the application to reduce impacts further to negligible or low levels.

#### 4.2.3 COUNCILLORS BRIEFINGS

Following a period of five months where there had been limited progress with the application, the appellant contacted local councillors Cllr Smaill, Baird, Hackett, Imrie and Milligan via email requesting it to be referred to committee thereby enabling the merits of the case to be openly debated. Cllr Baird and Cllr Smaill consequently requested such.

The appellant sent a follow-up email to local councillors requesting a meeting to discuss the proposals to as to ensure they had full facts prior to the application going to committee. (MEDOC10)

Due to the Christmas break the meeting was pushed back to early January 2018. On the 16<sup>th</sup> January 2018 the appellant met local councillors to allow the merits of the case and concern regarding lack of progress and full consideration of all issues. Those attending were:

- Cllr Cassidy
- Cllr Hackett
- Cllr Russell
- Cllr Imrie

Following this, Cllr Imrie suggested a meeting with the case officer would potentially be helpful. This was instigated by Cllr Imrie and a subsequent meeting was held on the 29<sup>th</sup> January 2018. Here the appellant met with representatives from the planning department to discuss the merits of the application.

#### 4.3 ADDITIONAL INFORMATION

A planning considerations paper was presented at that meeting, and duly emailed to the authority. (MEDOC11) It set out clearly the key facts of the proposal and why it is felt it should be supported. The Scottish Government's Mental Health Strategy: 2017-2027 (MEDOC12), as had been touched on in the discussion, was also sent via email to the authority (MEDOC13). In addition, the appellant wrote to Cllr Imrie and the case officer on 31<sup>st</sup> January setting out the mental healthcare provision (MEDOC14) Montpellier deliver.

A staff breakdown was also sent to the case officer via email following the meeting on the 29<sup>th</sup> January 2018 (MEDOC15)



#### 4.4 OUTCOME

On the 20<sup>th</sup> February 2018 the authority conveyed via email that they were not supportive of the application (MEDOC03):

*"After giving considerable thought to all of the submissions made in relation to the planning application, we have decided that the application cannot be supported."*

Following this, the appellants sought confirmation of timescales from the authority. It was confirmed via email on the 7<sup>th</sup> March 2018 from the case officer that the application would be presented to the April 3<sup>rd</sup> Committee. The agenda for this was due to be published on the 23<sup>rd</sup> March 2018. (MEDOC03)

Later that day however the case officer telephoned to confirm that as the call-in from Cllr Baird was not valid, the application would not go to committee and as such would remain a delegated decision.

## 5 STATEMENT OF FACT

### 5.1 SITE LOCATION AND CONTEXT

The site lies within a focus area for growth in the Midlothian Strategic Development Area (SDA) of the A7/A701/Railway corridor. The application site forms part of a wider development site, commonly known as 'Sheriffhall South' which has been marketed and allocated for Class 4 (Business) and 5 (General Industrial) uses for a significant period of time.

Within the statutory Midlothian Council Local Development Plan (2017) the application site is allocated for Class 4 uses only.

### 5.2 KEY FACTS OF THE PROPOSAL

The application is a direct result of the current, very real requirement for a step-down mental health facility in the central region of Scotland.

The applicant will construct the facility; it will be run by a dedicated experienced operator. The proposal has been discussed with the NHS and run by a third party operator.

The proposal comprises two distinct buildings. This is to serve the 'step down' approach to care.

The proposal proposes a single point of access from Melville Gate Road.

There are no technical, environmental or physical reasons to prevent the development from progressing.

There are no objections from statutory consultees, apart from that of economic development whose response to the application itself is a matter of debate.

It is expected that the number of jobs created will be to the tune of 122 (likely to increase) and substantial wider economic investment. The facility itself will deliver positions across senior clinicians and managers, clinical staff, administration and managerial and support staff. A full breakdown of staff was lodged with the case officer at their request (MEDOC15).

## 6 ASSESSMENT

### 6.1 ASSESSMENT

This section will assess the relevant planning considerations of the application. An overview of the legislation, government planning policy, development plan policy and material considerations will be provided and drawn upon as relevant.

The application is examined in the context of The Town and Country Planning (Scotland) Act 1997 (as amended), Scottish Planning Policy and the development plan pertinent to the site. At the time the application was lodged the previous 2008 Local Plan was in force as well as the South East Scotland Strategic Development Plan (SESplan) (2013). Since then the new Local Development Plan (2017) has come into force.

Paragraph 1 of the SPP promotes consistency in the application of planning policy in Scotland, whilst allowing sufficient flexibility to reflect local circumstances.

This directly relates to: (inter alia)

- The determination of planning applications and appeals.

Furthermore, the Core Values of the Planning Service as stated on page 4 paragraph 4 of the SPP advocates a;

*"focus on outcomes, maximizing benefits and balancing competing interests"*

as well as emphasising;

*"make decisions in a timely, transparent and fair way to provide a supportive business environment and engender public confidence in the system."*

In addition, a stated core value of the planning system is *"to be inclusive, engaging all interests as early and effectively as possible."* Planning is viewed as having a fundamental role in promoting *"strong, resilient and inclusive communities"*.

The planning system must therefore not simply be about scrutiny. Planning must be a means to create strong spaces, places and communities.

This proposal has been designed for the specialist provision of residential accommodation and personal care for people with an acquired mental illness, whether caused by disease, trauma or substance abuse. These people are some of the most vulnerable in our society. Society should make provision for high quality housing and personal care, as is indeed proposed in this application.

#### 6.1.1 PRINCIPLE

The principle of development in this location is not debated, following the Council's existing and continued allocation of the land for development. The Development Plan allocation e32 negates the need to discuss the merits of development in this location in the context of policies relating to the green belt, countryside or agricultural land. The protection offered by these policies is considered removed by virtue of Policy ECON1 and the e32 allocation.

Midlothian Council have stipulated in their adopted Local Development Plan that the site is suited only to Class 4 uses, that is 'Business' (office, light industry, research and development). The site could therefore in theory be occupied by an office block, an industrial unit or shed. However, no such users have noted an interest in this site since being actively marketed since 2009.

The development of a Class 8A use on this site represents a departure from the Development Plan however it is not the appellants experience that Class 8A uses are present as an allocation within a Plan. Therefore applications for such will always have to overcome planning hurdles and must be considered in a broader context than simply that of a specific allocation use type or class.. We contend that the flexibility Scottish Planning Policy and the Strategic Development Plan SESplan seeks to deliver in order to stimulate and encourage development should be employed at this point. SPP calls for Local Development Plans to respond to market trends – that includes being responsive to what demand exists in an area and taking into account the economic benefits that come with meeting that demand in a timely manner. It specifically states *"Development Plans should positively seek opportunities to meet the development needs of the plan area in a way which is flexible enough to adapt to changing circumstances over time..."*. SESplan's Spatial Strategy *"aims to respond to the diverse needs and locational requirements of different sectors and sizes of businesses whilst being flexible to changing circumstances in order to accommodate new economic opportunities."* Therefore, all upper tiers of the planning system encourage a degree of flexibility to respond to realistic changes and demand. The Council must take this on board.

As an allocation rolled over from the 2003 Local Plan together with an extensive and unfruitful marketing campaign (MEDOC02), it is evident that Class 4 and 5 operators are not attracted to this location. Marketing material from the vendor (landowner) has highlighted this. development is now proposed which will meet other aims of the Development Plan such as investment, job creation and responding to the needs of a healthy and successful Midlothian.

The fact remains that should the Council be minded to refuse this application it is likely – given the historic lack of interest in the site by Class 4 users – that this committed site will remain undeveloped. Such a decision is deflecting inward investment from Midlothian, thereby going against the Council's own aims and objectives and failing to create inclusive communities.

The development being proposed here will provide employment opportunities and together with the adjacent proposal will enhance this location as a place to do business – whatever form it may take. The Local Development Plan allocation e32 sets out Development Considerations, including that the site e32 should be retained for employment opportunities. This development proposal will do this.

## 6.1.2 ECONOMIC BENEFITS

Job creation and economic investment is as set out earlier, a key consideration and driving force behind SESplans focus on this growth area and Midlothian Council's similar aims. Indeed, SPP directs the planning system to promote and increase business activity and allocate sites that meet the needs of a variety of sectors. Considering that this allocated site has been open to development for over 10 years now and has delivered zero jobs, it is considered sensible and responsive of

Midlothian Council to look favourably on a proposal which will finally see jobs created and generate further 'spin-off' employment opportunities.

The facility aims to employ staff from the local area, with only more senior managerial roles attracting specialist skills. The knock on effect is local job creation in Midlothian, where although the economically active figures are high, 21% of the population are considered inactive (students, caring for family, sick, retired). It is considered that at least some of those in that 21% may benefit from the ability to work on a shift basis; the facility being operational for 24hrs allows for a range of working patterns to exist. In relation to jobs and employment, SPP notes that a core value of the planning system is to *"play a key role in facilitating sustainable economic growth, particularly the creation of new jobs and the strengthening of economic capacity and resilience within communities..."* It is estimated that this development will generate circa £11m to the local economy over time. Trade with local businesses is expected to be in the region of £425,000 per annum. The Plan calls for creation and enhancement of jobs and investment across Midlothian, emphasised and Policy STRAT1– this site has been committed since 2008.

### 6.1.3 LAYOUT AND DESIGN

The scheme forms two phases – the Phase A building is located in the northern section of the application boundary, with the Phase B building located in the southern section. (MEDOC01) The requirement for two separate buildings within the scheme is a result of the type of care facility proposed. As the level of care changes, patients are moved to the Phase B building where recovery/rehabilitation continues. This approach is central to the scheme.

The character of the area outwith the site and wider area boundary are respected through a carefully considered approach to layout, design and landscaping.

The layout of the scheme (MEDOC01) has been arrived at through careful consideration of the site and facility requirements. The existing treebelts on the site have been used positively to create a setting for the facility, allowing it to be formed around the natural setting and using these features to create interest and setting.

The site sections (MEDOC01) illustrate that some cut and fill will be required across the site to deal with the existing levels on site. The resulting material is to be dealt with within the site and in landscape areas.

The Phase A building comprises a ground and first floor. The building is orientated to face the central parking area. The main entrance from the car park leads to the main reception area beyond which is located a variety of care facilities. Communal and private garden space exist around the building, with small hardstanding patio areas. This building is surrounded by a weld mesh 4m hi-sec fence, which provides the secure line to the building entrance. The entire site is enclosed by a timber post and rail fence.

The Phase B building comprises a lower ground, ground and first floor. The building is orientated to face the central car park, with access being taken from this area. The building is also enclosed however here by a slightly lower 2m high timber fence, reflecting the step-down to a lower form of secure facility. The day space/breakout area on the ground floor opens out into the communal garden area to the west of the main building, which as noted earlier is secure by a 2m timber fence.





The scheme includes a central parking area, with main entrances to both buildings located to the east and west. The new entrance formed off Melville Gate Road will include a new footpath, which extends along the lower portion of Melville Gate Road to the existing bus stop. The footpath will allow passengers and cyclists who have dismounted safe access into the site and main entrance points.

The Design and Access Statement produced in support of the application (MEDOC01) illustrates that:

- the layout works with the sites conditions, maintaining the boundaries to the main road, making use of the existing treebelt features and the setting they offer, and strengthens this by virtue of the building orientations, scale and landscaping.
- materials proposed are of the highest quality, tested and utilised elsewhere on similar site. They are durable and weather in a manner which does not adversely impact on the visual appearance of the buildings/spaces, or the character and landscape setting of the area. A contemporary palette of materials are used which have been chosen for their longevity and low maintenance properties. Roofs shall be finished in a dark grey interlocking concrete roof tile with a deep overhang to protect the wall head. Fascias and soffits shall be formed in dark grey pvc-u with a lining effect to the soffits. External walls are a mix of smooth white render and buff coloured facing brick. Curtain walling will be powder coated thermally broken dark aluminium. Fenestration throughout the development reflects a desire to flood internal rooms with daylight and ventilation whilst allowing views outward across the surrounding countryside. To assist in achieving visual interest to the elevations coloured render panels have been incorporated between windows to create contrasting vertical punctuation to the linear appearance of the elevations. Entrances to both Phases are identified by zinc canopies and return gable walls to encapsulate the glazed entrance doors and glass screens to reception. At this lower level, the soffits are treated with natural cedar lining to give warmth to the entrances. Please refer to the accompanying Design & Access Statement for more detail.
- existing pedestrian routes only exist on the east side of the Melville Gate Road, however proposals include to enhance connections in the area by provision of a footpath to the existing bus stop on the west side of the Road. Within the site footpaths and dropped kerbs allow for safe movement through the internal site.
- roads and lighting within the application site are considered to meet Council standards
- cycle parking and bin stores have been incorporated into the scheme.

Scottish Planning Policy requires high quality places to be delivered, centred around the design-led approach and six key qualities of successful places as follows:

1. Distinctive
2. Safe and pleasant
3. Welcoming



#### 4. Adaptable

#### 5. Resource efficient

#### 6. Easy to move around in

It is held these are achieved in this proposal in the context of the specific type of development. At Development Plan level, SESplan Policy 1B continues this aim. Local Development Plan Policy DEV 5: Sustainability in New Development requires good design in both the overall layout of sites and their constituent parts. Sustainability is also highlighted as a requirement under this Policy and in this scheme this has been employed by responding to the site's characteristics, reduce energy consumption, provision of suitable landscaping, suitable access provision for both pedestrians and vehicles, and that waste recycling bins will be located within the site.

The proposed development will create a place which is welcoming and distinctive by virtue of its design and Euro Garages branding. It will be safe and pleasant ensuring ease of movement by virtue of its design and the ability of vehicles and pedestrians to enter/exit the site and move around the site in a clear and legible manner. The site is adaptable in that it is linked to the wider area by road and footpath links, with parking provided at various points across the site to suit a range of users. It is resource efficient making use of natural light by installing high level windows to allow light to filter into the units. LED lighting is employed across the site, together with manual and automatic switching and dimming facilities.

A building management system (BMS) shall be provided. A good control strategy is essential to maintain good levels of service, comfort and safety in an energy efficient manner. Comfort of the patients is highly important therefore simple, user friendly, local control switching and thermostats will be located in all resident areas. Energy meters and submeters will be provided to ensure that 90% of the estimated annual energy consumption of each fuel is accounted for. These will include boilers, water heaters, kitchen equipment, commercial laundry equipment, heat pumps, motor control centres, lighting and some final electrical distribution boards.

Planting on the site will be used to delineate spaces and used, be low maintenance but will be integrated with the existing landscaping around the site and use this to help create a setting for the development. Design of buildings employ the most up to date technical standards and creative design. Fenestration throughout the development reflects a desire to flood internal rooms with daylight and ventilation whilst allowing uninterrupted views over the countryside.

### 6.1.4 LANDSCAPING/TREES

Along the new entrance several trees have to be removed (MEDOC01) , however the loss is considered minimal in that only 29 trees will be removed in total, and tree planting is proposed as part of the wider scheme. The tree report (MEDOC01) carried out for the wider site identified three distinct treebelts in the wider site – A, B and C. A lies to the east of the development proposal, B to the west and C to the south. Only A therefore is affected by the access route to the proposed development. Within A, the report concludes that it encompasses a block of trees 80m in width in order to include a generous swathe of trees either side of this. It also includes a strip of trees to the west of this, to include all trees within 12m of the site boundary and at the interface with Area C. This area contains 145 trees and is described as being

*"approximately 327m in length and 40m in width. This is identified in the Ancient Woodland Inventory as being of Long Established Plantation Origin (LEPO), suggesting that it has been continually wooded since 1840. The site currently supports an even aged plantation of mixed species approximately 60 to 70 years in age. Younger regeneration of beech and elm is present in the understorey in places. Beech and larch form the dominant species, with lesser amounts of oak, sweet chestnut, poplar and sycamore scattered throughout."*

The area was considered to be in generally 'fair condition' however a range of issues were noted in relation to condition and management, including:

- Suppression – all trees
- Windblow – few instances
- Dead/Dying – several trees
- Mammal damage – several trees
- Poor form/structure – a proportion of trees
- Ivy encroachment – some trees (heavy)
- Elm trees – those recorded were considered small, suppressed and scrubby with limited future potential

Future management – the woodland has been established as a commercial plantation, approaching silvicultural maturity and becoming increasingly vulnerable to windblow.

One tree recommended for removal – number 156 – is included in those requiring removal under the proposed development.

The scheme includes a strong landscape framework to align with the framework being proposed by the owners of the site as part of their spine road application. The site owners, Buccleuch Property (Sheriffhall South) Ltd, has sought to ensure the landscaping established at this stage will also set the tone for future development plot landscaping. They have made clear to all future plot developers/occupiers that, as overall landowner, all future independent plot developers will be made required to adopt a strong approach to landscaping within the scheme.

The layout includes private and communal garden space, located around each building. The entrance avenue will be set in the existing trees of treebelt 'A' and include a feature retaining wall of gabions, crib lock or similar. This will promote interest and as it is proposed to continue this into the site to a degree, will assist in the transition of space and sense of place.

The landscape framework seeks to enhance the sense of setting for the buildings within the site. The shape and mixture of landscaped areas within the site create interest, enhanced further by the mix of species proposed, as set out in drawing Acceber, ADL194 Rev A and landscape schedule. (MEDOC01).

A mixture of trees, native hedges, shrub, herbaceous plants and climbers are proposed across the site.



Additional tree planting within the site includes a range of trees species, with 28No. in total proposed.

Beech hedging is incorporated throughout the site, used in tandem with other types of landscape treatments, which create interest and a diversity of shapes across the site.

Tree planting along the car parking area delivers not only screening and setting but protects the private garden space to the front of the Phase A building. Trees are used on the perimeter of the site and in order pockets to create interest and create a sense of place for the development, while taking cognisance of the existing trees in the wider site.

Low maintenance amenity grass areas exist to the front of the buildings and around the built form. This is however enhanced in places with tree planting, shrubs planting, and double-staggered beech hedging.

The materials palette proposed includes:

- Timber post and rail fence around the perimeter of the site
- Gabion retaining walls in stone, crib lock or similar which line the vehicular access to the site
- Car Park surfacing; Tarmac and porous pavements

Landscaping has been employed within the site, aligning with that overall framework being rolled out across the wider site by the owners. The landscape character in this area is set to change under the existing and proposed Development Plan allocations, and the approach of the vendor to all development plots aims to ensure a strong context and setting for all development. This will assist in the creation of a sense of place, in accordance with SPP, SESplan and wider LP/LDP policies.

Minimal loss of trees is occurring as a result of this development (29No. in total), and none are covered by Tree Protection Orders. While the area affected by the proposals, Area A, is identified in the Ancient Woodland Inventory as being of Long Established Plantation Origin (LEPO), additional planting and sensitive landscape treatment which is robust in form equates to replacement planting of 28No. Trees. Taken together with the other range and mix of planting proposed, it is considered that Policy ENV 11: Woodland, Trees and Hedges is accorded with. It is also held that the development will not adversely affect the quality of the local landscaping, and indeed additional landscaping provided for within the application site which complements that proposed elsewhere will enhance the landscape therefore Policy ENV7: Landscape Character is accorded with.

#### 6.1.5 ACCESS/MOVEMENT

The development is not considered a 'Major-travel generating development'. However, in line with the Policy the proposal is accompanied by a Transport Assessment (MEDOC01) and is accessible by safe and direct routes for pedestrian and cyclists. The development is not expected to generate significant trips in its own right, and visitor trips are typically mid-morning and mid-afternoon, plus with the planned development of a footpath from the bus stop on Melville Gate Road into the facility, will be accessible by means other than the private car.



It should be noted that with a total of 122 staff, working in three shifts, there will be a maximum of some 50 staff on site at any one time. It has reviewed existing traffic counts, speeds and accidents on Melville Gate Road.

The level of traffic predicted to be generated as a result of the development is low, with the results of the trip generation and assessment of the capacity of the access junction to be provided indicate that a safe and appropriate junction can be formed. Visibility splays of 4.5m by 120m will be allowed for in the junction design. The flows are considered modest and unlikely to cause capacity issues at existing junctions within the network.

It is proposed to form a new access from the Melville Gate Road which runs to the east of the site. This will necessitate the creation of a break in the treebelt as existing, however it is expected that only 29 trees will require to be removed, from what is a grouping of 145. The access road will comprise tarmac and form both the entrance and exit point for the scheme.

Access is proposed from Melville Gate Road which is a 40mph route, a bus route, with street lighting and a footway on the southern side.

Existing bus services which run along Melville Gate Road, Old Dalkeith Road and Gilmerton Road are: X95 (every hour), 33 (every 20mins), 49 (every 20mins) and 51 (one per day, each way).

A new footpath will be created to run along the southern side of this new access route providing safe access from the site to the bus stop on Melville Gate Road.

Pedestrian movement within the site is guided by dedicated footpaths at each building and a central area to allow safe traversing of the car park.

Once in the site, vehicles will be directed to a central parking area. A total of 61 parking bays are proposed, 6 of which are disabled bays (3 at each building). Dropped kerbs will allow ease of movement. Midlothian Council's standards show a requirements of 50 spaces for 66 residents and 16 spaces for staff, in addition to 6 cycle spaces. Visiting hours for relatives of residents would be flexible with no visiting during meal times, and staff operate over three shift patterns. There is no necessity to separate visitor and staff parking areas within the hospital. The level of parking being provided is therefore in line with Council Standards.

A Travel Plan is proposed, to include references to walking, cycling and public transport facilities in the area with details made available to those using and working at the facility. Car sharing is promoted, as well as the use of smart phone applications. The proposals are therefore considered acceptable in terms of Policy IMP1: New Development and DEV 5: Sustainably in New Development.

#### **6.1.6 FLOOD RISK AND DRAINAGE**

A Flood Risk Assessment has been lodged as part of the application pack as has a Surface Water Management Plan (MEDOC01). This includes an FRA checklist per SEPA's requirements. Ultimately the FRA concludes that the risk of flooding has been investigated as appropriate to the size and location of the site. With design actions taken as appropriate, no further action is required in this regard.

### 6.1.7 NOISE

Charlie Flemming Associates Ltd (MEDOC01) have undertaken an assessment of noise levels (2017) and conclude that during the night and day, there will be no adverse impact on the residents of the care unit and so the significance will be neutral. Therefore, the local traffic sound levels are considered to be within the limits given in current planning guidance Planning Advice Note 1/2011 and TA 2011. There are therefore no noise-related issues which would merit refusal of the application.

### 6.1.8 ARCHAEOLOGY

Midlothian is rich in archaeological heritage and as such a Desk Base Assessment (MEDOC01) has been undertaken in support of the application. Local Development Plan Policy ENV25: Site Assessment, Evaluation and Recording deal with archaeology and the historic environment. The DBA concluded that there are no scheduled monuments, listed buildings or history of archaeological finds on site. In their assessment of indirect impacts, the following conclusions were reached:

- No visual impacts of scheduled sites
- No visual impacts of listed buildings
- No visual impacts on gardens and designed landscapes and conservation areas

### 6.1.9 ECOLOGY

A Phase 1 Habitat Assessment and Badger Survey has been carried out for the application site, to include the site boundary and beyond to a minimum 30m buffer, including parts of the adjacent woodland and arable field which were subject to a botanical Phase 1 Habitat Assessment.

The site was considered of low or moderate value overall, comprising an arable field area of low value and marginal land. The arable land around the application site was considered of overall low value to most taxa. The crop field is of no significant value to any species except for common bird species in winter and possibly a small number of wintering species.

The woodlands adjacent, subject of a separate tree survey (MEDOC01), was considered of high value in themselves for faunal species. However, no rare or notable plant species were recorded during the surveys.

No active badger setts were found on the site or in adjacent woodlands. Disused setts were recorded in the woodlands and these are considered abandoned given the level of informal recreation nearby such as dog walking, camping and mountain biking.

The removal of some trees under the proposal, necessary to create the new access into the site, may impact on bat and bird species in terms of roost removal, loss of nesting habitat and foraging. The proposals also however include planting which could create ecological value on the site which could compensate or add value.

Potential impacts are considered to be minor or moderate in nearly all instances except mature trees in relation to possible bat species, and measures are given (refer Survey Report, Alpha Ecology, 2017) to reduce impacts further to negligible or

low levels. These measures included in the Survey Report include tree assessment by a tree climbing arboriculturist once any tree removal is confirmed. A protection plan for the works and for the completed Site generally would be appropriate and could include timing to avoid priority periods for species such as reproduction, pre-works checks for habitats, briefings to contractors and monitoring during key phases of work and post completion. It is therefore held that the proposal is in accordance with Policies DEV7: Landscaping in New Development, and ENV11: Woodland, Trees and Hedges.

#### **6.1.10 COMMENTS TO THE APPLICATION**

There is a clear aim of the development policy framework to encourage and enhance growth and development, jobs and investment, into Midlothian. In doing so, cognisance should be taken of the aims of national policy and guidance to utilise the planning system for the creation of successful places and strong communities. Inclusiveness is at the heart of this, as well as design and sustainability. We have demonstrated that there are no physical barriers to this development taking place. There are no concerns raised from statutory consultees on this matter. We have demonstrated that the design of the proposal is both fit for the specialist needs of the specific development but also suitable to this site and location, and is acceptable in policy terms. There are no statutory objections to indicate otherwise. The site can be serviced and accessed without issue; again there are no statutory objections in this regard. We have demonstrated that there is a very real need for this facility in this region and that it brings notable benefits not least care and rehabilitation but employment, investment and establishing use of a long-standing allocated development site in Midlothian. It therefore meets wider policy aims and objectives of the planning policy framework.

Therefore, the only matter which has lead the planning department to move to a potential refusal of the application is the allocated use of the site. The planning system is there to balance interests; to consider a wide range of aspects of a development proposal and serve each sector of society. Looking beyond the strictness of a Class 4 use, the development proposed clearly can be supported.

## 7 SUMMARY AND CONCLUSIONS

### 7.1 SUMMARY AND CONCLUSIONS

The authority has to date failed to make a decision on a valid planning application and have consistently delayed the process with a lack of meaningful engagement, dialogue, feedback or discussion regarding the application or any points of concern that may have arisen as a result of the pre-application meeting and/or submission.

On the 20<sup>th</sup> February 2018 – some 7 months after a valid 'local' application was lodged, the authority saw fit to set out their intention in writing. This despite a strong evidence base illustrating the need for such a facility, the economic benefits and the ability of this site to deliver such in a timely and sustainable manner.

In terms of the Development Plan position, it was highlighted again that land at Sheriffhall South has been allocated for at least a 10-year period for business and industry development. We assume that in the allocation of the site, the Council's aims were to attract investment and economic growth to the Midlothian. It seems from the 2008 Local Plan that the allocation was primarily to "build upon the success of this location in attracting economic investment." The appellants are a business and are part of a vital and vibrant care industry. The question must be asked – and answered by Midlothian Council - why should it be excluded from this allocation resulting in the loss of substantial employment and investment because of a narrow, inflexible and blinkered interpretation of what constitutes business and industry. If this takes effect, the application process is therefore not comprehensive and discriminates against the most vulnerable in our local society.

At Todhills, consent was granted for the Spire hospital on what was land allocated for Class 4 and 5 uses. Indeed, the application site was considered to be partially within the area allocated for economic purposes and partly within the area protected from development other than essential countryside uses. In considering that application the officer noted:

*"The proposed hospital was not a use originally envisaged when either the Local Plan or Master Plan was prepared. Whilst such a use does not come within Use Class 4, it is not inherently incompatible with a business park location and will provide a significant employment generator."*

The LDP states that the retention of the allocation e32 was for employment opportunities. Relevant Policy STRAT 1: Committee Development seeks early implementation of all committed development sites. The LDP goes on to state that the economic clusters (which includes Sheriffhall South) seek to attract primarily Class 4, 5 and 6 uses however "...ancillary support uses may be acceptable to help market the location and attract investment..." It is considered this point is relevant in the context of this application and that the lack of market interest from Class 4, 5 and 6 uses demonstrates that this is an instance where overarching aims of economic growth and the creation of health care facilities should be given due weight.



Scottish Planning Policy has sustainable economic growth at its core. It states *"The Government Economic Strategy indicates that sustainable economic growth is the key to unlocking Scotland's potential and outlines the multiple benefits of delivering the Government's purpose, including creating a supportive business environment, achieving a low carbon economy, tackling health and social problems, maintaining a high-quality environment and passing on a sustainable legacy for future generations."*

*"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."* In summary what is directed is a comprehensive and cohesive strategy to providing a vibrant and sustainable community infrastructure. This facility will assist in meeting this.

The proposed development will deliver between circa 122 jobs across a wide spectrum of employment types. Due to the 24-hour operation of the facility shift flexibility allows a wide range of employment and working patterns. Particular attention is given to those specialist employment needs and young working mothers whose family commitments can be accommodated by the amount of hours they work and when they work. The hospital will seek to work in conjunction with local education institutions to provide a direct link to practical training. It will also provide direct training, offering the opportunity for staff to progress within the organisation and wider educational support within the community.

The planning systems permits decisions to be made contrary to the Development Plan where material considerations are such that the case can be made. This is the case here. The existing allocation of the site does not and has not for several years now responded to the Class 4 market which evidently do not wish to locate here. Economic development is based upon need and demand. There is demand for other uses which would result in economic investment and growth however and would serve to meet Policy IMP4 of the LDP. This project would represent an inward investment of £11m to the Midlothian economy. Spin off local trade is considered to be in excess of £425,00 per annum. These are material considerations in the determination of this planning application.

The proposal must be considered alongside other Development Plan considerations, specifically Policy IMP4: Health Centres which states:

*"The Council supports the development of new or extended health centre facilities where there is an identified need to enhance healthcare services within a community."*

The section of the Plan where this Policy exists, 'Delivering the Strategy', states "The MLDP provides a positive framework for supporting and managing sustainable economic growth but it is also expected to have a strong focus on delivering the development strategy." Furthermore, the LDP acknowledges that "The Council alone cannot fund this level of investment and acknowledges that it will require the cooperation of and collaboration with the Government, public sector, agencies, the private sector and in some cases, possibly the voluntary sector."

The Council acknowledge that independent care providers play a role in the Midlothian Health and Social Care Partnership and that together with GP's,



hospitals, health workers, social care staff and voluntary bodies, they will share information and co-ordinate planning and delivering services – all with the objective of putting people first. The stated vision is that;

*"people will lead longer and healthier lives by getting the right advice, care and support in the right place, at the right time."*

The Council are urged to look beyond the site-specific allocation on this parcel of land in isolation and look instead to their ability to meet wider Plan and long-term Midlothian objectives. This development can generate employment and create a facility, allowed for under Policy IMP4, which will help Midlothian achieve the Vision set out in their Plan.

And several of their stated Plan social and economic Objectives including

- Create local access to jobs, services and facilities
- Seek agreements and partnerships with developers and agencies to ensure delivery of infrastructure and facilities.
- Support Midlothian's growing economy by creating quality and sustainable business locations.
- Encourage the creation of new businesses
- Identify new economic and commercial opportunities to provide local jobs and help reduce out-commuting.

It is respectfully requested that the LRB take on board the content of this statement, discussion and supporting information and grant planning consent for this much-needed mental health facility.

d0049485/2018-05-04 16 03





## CONTACT DETAILS

Tel: +44 131 240 7500

Colliers International  
1c Exchange Crescent  
Conference Sq  
Edinburgh  
EH38AN

[www.colliers.com/uk](http://www.colliers.com/uk)

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11 May 2018

Mr Peter Arnsdorf  
Midlothian Council  
Planning Manager  
Fairfield House  
8 Lothian Road  
Dalkeith  
EH22 3ZN

Dear Peter,

**THE TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) – PLANNING APPLICATION 17/00587/DPP MONTEPELIER ESTATES**

My clients have now considered the contents of the Delegated Report as made available on Midlothian Council's planning portal on 7<sup>th</sup> May 2018. The Appellant is astonished that the Report contains new information gleaned from council officers not previously consulted during the determination period of the planning application.

Of the 27 Development Plan Policies listed in the Delegated Report, 4 are included in the given reasons for refusal. While we contend that the given reasons are flawed and object to the recommendation, we are supportive of the agreement established in respect of those other 23 policies.

The site is allocated in the Local Development Plan for Class 4 business use, as allocation e32 i.e. office, research and development, any industrial process 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 allocation for development in this location has been longstanding. The officer considers that there is an argument – and a reason for refusal – for the proposed development being refused due to the Green Belt. The site is allocated for development. By virtue of that allocation the Green Belt designation is considered to fall away. The development of the Elginhaugh pub on a portion of this allocated site dilutes the officer's argument further. That planning application was approved (ref: 13/00848/DPP) and the planning officer reasoned 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 allocation sets out that the site should be retained for employment opportunities. The LRB must acknowledge that the term 'employment generating uses' is wider than any single Use Class



definition. It is completely logical that Use Classes create employment; this includes Class 8A. This type of development requires a more specific definition in order to create distinction and, for instance, set criteria such as parking standards.

The Plan states that

*"the site will remain in the Green Belt and only be removed once the entire site (all 3 parts) is developed..."*

This is considered overly restrictive and unrealistic, particularly in light of the lack of market interest in developing a Class 4 Use on 11 acres of land. Market reports and self-evident lack of developer interest in building speculative office or light industrial space over the last 15 years demonstrates the market response to the Policy framework being employed; either there are no prospective new businesses or the site is in the wrong location. Either way, planned development has failed to transpire.

The overall objectives of the Green Belt set out in the Plan (Policy ENV 1) are to direct development to the most appropriate location; protect and enhance character and landscape setting; and protect and provide access to open space. The officers report cites landscape as a key issue. Landscaping is clearly not an issue with this application which nestles between existing robust woodland groupings on the site. The development proposed does not conflict with any of these objectives. The proposed use is to meet an identified need. Exhaustive site searches have been undertaken by the appellant over a three-year period to find a suitable location to meet this need. This was discussed in great depth and a site search plan was tabled during the only meeting with the planning officers. Even if the Planning Authority were to continue their view that the site is, in effect, some form of Green Belt this development could still be supported by virtue of criteria E of the relevant Policy ENV 1: "development that meets a national requirement or established need if no other site is available.". To state that the Authority might de-allocate the site altogether from any development taking place does not align with other Development Plan policy which seeks to continue to support long standing allocated development sites.

The statement that the development of the Elginhaugh pub has not provided an impetus for further development is not accepted. Two applicants with two live planning applications deem this area a suitable, attractive location to develop. They had sought to move swiftly through the planning process to progress development on the ground however both have faced substantial delays in obtaining a decision from the Planning Authority. It is the case that, as the landowner and agents have stated frequently to the Planning Authority, the market has shifted away from speculative build of office and light industrial units. The level of interest from non-Class 4 Uses as submitted with the application clearly show this and the LRB are urged to take cognisance of this fact.

The Delegated Report includes a never previously issued consultee response from the Council's economic development section, which ultimately recommends refusal. However, this was not raised prior to the Review notice being served and was not translated to the Appellant while the application was still pending. The response is therefore not considered admissible. The Appellants are bemused by several of the comments made, which ultimately discourage development taking place rather than encouraging it into the Midlothian area. The issue of a

Class 8A Use on a site for Class 4 Business is not uncommon and has been accepted in other areas of the UK as it is acknowledged that care facilities are a strong generator of employment, serve a community and wider regional needs. We would draw to the LRB's attention the following key points:

- If the Council believe that there is a shortage of available industrial sites (Class 4, 5 and 6), they are tasked with bringing such sites forward. The issue is not the supply of land, it is how the land responds to market. Any shortfall – perceived or realistic – cannot be held against the Appellants who are expecting to create circa 120 jobs under this proposal. The response fails to take into account the market demand and viability of site development. Infrastructure costs associated with development of any site form part of the viability assessment and it is logical then that any potential occupiers will consider established serviced sites before considering greenfield locations. In addition, it is the case that the landowner is flexible in their approach to open up the development site, and consideration has been given to various developments models over the years in an attempt to move this site forward. 15 years of attempting such without success clearly demonstrates willingness on the part of the landowner, therefore the Council are urged to employ a similar willingness to get development moving.
- Between 2003-2012 there was an average annual take up of 3.48ha of employment land in Midlothian. In 2013 the total effective employment land supply was 125.08ha, meaning Midlothian had a 36-year supply<sup>1</sup>. Midlothian Council's Planning Performance Framework Annual Report 2016-2017 states that the marketable employment land supply in the 2015-2016 period was 201ha however there was 0ha take up in that period. Furthermore, the only take up reported in the 2016-2017 year was 5.5ha which the Energy from Waste facility at Millerhill largely accounted for. Applying 5.5ha/year take up to 201ha of land equates to a 36-year supply of employment land in Midlothian. What these figures show is that development land exists, but there is no uptake.
- The claim that inward investment into Midlothian is low simply because of a lack of suitable sites and premises of sufficient sizes is somewhat ironic in the context of this application. A viable development is seeking planning consent yet there is a recommendation for refusal, meaning the site could well remain vacant. Property agents tell us that for out of town offices, activity is focused in West Edinburgh. If the market drivers wanted to locate in Midlothian, they would do so and would surely look to established functioning sites in the first instance such as Shawfair Park as opposed to the application site which is greenfield with no infrastructure in place. The Borders Railway has absolutely no direct relevance to this site.
- With regards to 'roller shutter' units the Planning Authority have had discussions with the landowner of the wider site to deliver elsewhere. In any event these could be classed as Class 5 or 6 uses therefore could not locate on this site under current Plan policy.
- It is not accepted that there is a shortage of high quality/serviced offices/co-working spaces. There is 5,000sqft of office space ready to let at Shawfair Park. Co-location by its very definition requires services and facilities in close proximity and as such, if space remains vacant at an established working location there is considered very little possibility of a vacant 11acre greenfield site at Sheriffhall South being attractive. Potential occupiers are more likely to seek out existing builds in established areas.

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<sup>1</sup> Employment Land and Property Market Review, Ryden, 2013

- The assertion that the development will only result in ancillary and low wage/skill positions is completely unfounded and such a stance fails wholeheartedly to meet the aims of various policies, aims and ambitions of Midlothian Council as a whole. To suggest that ancillary positions are not valuable contributors to an economy as a whole is unfounded.
- If Midlothian Council are seeking to develop spaces for start-up companies, expand existing companies and build on the reopening of the Borders Railway they have the opportunity to engage. We are not aware that the Council have sought to facilitate any of these development scenarios with the landowner, during the last 15 years.

A further new matter of "...some discussion with the Head of Adult and Social Care..." has been included at Page 13 of the Delegated Report. This is informal, not a Consultees response and is an opinion given without access to the full facts. It was not obtained during the consultation period, nor in the 6-month period prior to the Appellants meeting the planning officer. At no point was this information shared or the Appellants given opportunity to engage. Midlothian provide Community Healthcare services. This proposal is for a Regional Secure service in accordance with Government Policy to provide mental health services closer to home. Patients will benefit from family support, local professional assistance and consequently will assimilate more quickly into their Community. Statistically there will be undoubtedly some residents from Midlothian that will need the use of this service and even more so the regional population of the south-east of Scotland. The proposed service is not competitive with those provided by Midlothian and staffing profiles are different to those required for a specialist service. It is accepted that safeguarding is a matter that will need some input from the Council, but that will already be necessary for patients from the area located elsewhere in Scotland. The issues raised appear to be Operational matters and outside of the Planning process.

The Delegated Report suggests that the development should be situated in an urban area. There is no justification for what appears as a personal view nor is there any operational reason to do so. It is completely unrelated to the matter under consideration. The Appellant has sought to locate here for a number of reasons and this is an attractive, wholly suitable site for the specialist care facility. Moreover, the suggestion that being located in a built up area would somehow negate the need to overcome non-conformity with policy is a far too simplistic view of matters. The other wider and more important considerations relevant to the proposal are being completely overlooked.

A full design and access statement was lodged with the application which demonstrates that a modern and contemporary approach has been taken to the design of the buildings in line with Scottish Government Policy – Creating Places. The development does not represent over development of the site as there is adequate public and private open space with the development benefitting from its mature landscape setting and open views to and from the site. Sun path diagrams were produced to indicate overshadowing of the private courtyards in the month of June. These prove that except for the east courtyard which loses sunlight at 6.00pm in the evening, all courtyards benefit from sunlight throughout the day. Criticism has been directed at some of the seating areas being in shade but there is a fine balance between constant exposure to sunlight and the ability to sit in shade which we believe the proposals address.



The buildings are carefully positioned between two existing mature tree belts and run parallel with the existing contours to ensure that their visual impact is minimised through the best possible relationship with the existing topography and landscape setting. The design of the buildings offers a more sensitive affiliation with the contours of the site than larger, square or rectangular industrial units which could demand a greater potentially damaging cut and fill exercise. The indicative landscape proposals deliberately attempt to integrate the buildings with the mature setting of trees through judicious planting around the peripheral edges of the building plots. The buildings deliberately incorporate a strong horizontal emphasis with deep overhanging eaves, re-enforcing and grounding the buildings within the topography and reducing visual impact.

High quality materials are used throughout the development in the form of facing brick, smooth render, zinc canopies, profiled concrete roof tiles and powder coated aluminium curtain walling, windows and doors to ensure longevity, appearance and low maintenance.

As noted a secure fence is a pre-requisite for this type of accommodation but a green, open mesh fence was deliberately chosen to blend with the landscape setting and backdrop of mature trees while also allowing views through it to the wider site and beyond.

The Delegated Report sets out two reasons for refusal:

1. The proposed land use is 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. There are no material considerations that are considered to be of sufficient weight to indicate that the proposed development should be supported despite its non-compliance with development plan policy.

Section 25 of The Town and Country Planning (Scotland) Act 1997 (as amended) states that:

*"Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise."*

The development of a Class 8A use on this site represents a departure from the Development Plan in terms of the prescribed Use Class only. In terms of what 'business', 'research and development' and 'light industry' as stipulated under that Use Class actually do – i.e. generate jobs, investment and meet a defined need – this proposal is acceptable. SPP notes that a core value of the planning system is to *"play a key role in facilitating sustainable economic growth, particularly the creation of new jobs and the strengthening of economic capacity and resilience within communities..."* Flexibility exists in the material considerations of Scottish Planning Policy and the Strategic Development Plan in order to stimulate and encourage development. SPP calls for Local Development Plans to respond to market trends – that includes being responsive to what demand exists in an area and taking into account the economic benefits that come with meeting that demand in a timely manner. It specifically states *"Development Plans should positively seek opportunities to meet the development needs of the plan area in a way which is*



*flexible enough to adapt to changing circumstances over time...". SESplan's Spatial Strategy "aims to respond to the diverse needs and locational requirements of different sectors and sizes of businesses whilst being flexible to changing circumstances in order to accommodate new economic opportunities."* Therefore, all upper tiers of the planning system encourage a degree of flexibility to respond to realistic changes and demand. This is paramount in reaching a decision on this development proposal.

As a long-standing allocated site which has failed to attract market interest to date, despite a weighty marketing campaign, development is now proposed which will ensure delivery of a committed site, job creation and wider economic investment. It cannot be ignored that this site, just a small proportion of the overall 11 acres on this part of the 'Sheriffhall South' site, has been marketed unsuccessfully for its allocated use class. Should permission be granted, circa 8 acres of Class 4 land remains allocated at this location.

It is the case that if the LRB are willing to consider the true merits of the development proposal and the material considerations which demonstrate how a need can be viably and sustainably met, then this application should be granted planning consent without further delay thus allowing development to begin on site imminently.

Yours sincerely,

**Meabhann Crowe, MRTPI**  
**ASSOCIATE DIRECTOR**

**c.c Montpelier Estates**

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## Document List

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1. MEDOC01 – Planning Application 17/00587/DPP
  - a. Application forms
  - b. Planning Supporting Statement
  - c. Location Plan
  - d. Site Plan
  - e. Site Sections
  - f. Phase A elevations, sections, ground floor, lower floor plans
  - g. Phase B elevations, sections, ground floor, lower floor, first floor plans
  - h. Acoustic Report
  - i. Archaeological Report
  - j. Desktop SI Report
  - k. Design and Access Statement
  - l. Flood Risk Assessment
  - m. Landscaping Plan and Schedule
  - n. Phase 1 Habitat Assessment and Badger Survey
  - o. Surface Water Management Plan
  - p. Transport Statement
  - q. Tree Survey and Arboricultural Report
2. MEDOC02 – Marketing History
3. MEDOC03 – Review Request
  - a. Notice of Review
  - b. Email 08.03.2018 Review Procedure
  - c. Acoustic report
  - d. Application forms
  - e. Application summary
  - f. Arboricultural report
  - g. Archaeological report
  - h. Design and access statement
  - i. Ecology report
  - j. Email 20.09.2017 determination period
  - k. Email 29.01.2018 staff breakdown and economics
  - l. Email 07.03.2018 committee date chaser
  - m. Email 26.01.2018 A7 contribution
  - n. Email 20.02.2018 MLC position and timescales
  - o. Email 21.09.2017 determination period extension to 13.10.2017
  - p. Email 07.02.2017 feedback timescales

- q. Email 27.10.2017 determination period extension to 17.11.2017
- r. Email 04.12.2017 determination period extension to 20.02.2018
- s. Email 12.10.2017 determination period extension to 27.10.2017
- t. Email 07.03.2018 committee date 3<sup>rd</sup> April 2018
- u. Email 29.01.2018 summary of meeting, planning considerations paper and Mental Health Strategy
- v. Floor Plans (1-5)
- w. Elevations (1 -6)
- x. FRA
- y. Landscape schedule
- z. Mental Healthcare Provision Statement
- aa. Montpelier Letter 28.11.2017 to MLC
- bb. Planning Considerations Paper January 2018
- cc. Scottish Government Mental Health Strategy
- dd. Sheriffhall South Strategic Planning Overview (Buccleuch)
- ee. SI text
- ff. Site Plan
- gg. Statement of Appeal
- hh. Surface Water Management Plan
- ii. Transport Statement

- 4. MEDOC04 – MLC Letter regarding Procedure 19.03.2018
- 5. MEDOC05 – Request for Change to Review Procedure Letter 10.04.2018
- 6. MEDOC06 – MLC Confirmation of Change of Procedure Email 23.04.2018
- 7. MEDOC07 – Montpelier Letter to Councillors (and MLC) Email 28.11.2017
- 8. MEDOC08 – Statutory Consultee Responses to the Application
- 9. MEDOC09 – MLC Economic Development Section Response and Query to MLC Planning
- 10. MEDOC10 – Montpelier Letter to Councillors December 2017 (example Cllr Baird)
- 11. MEDOC11 – Planning Considerations Paper (January 2018)
- 12. MEDOC12 – Scottish Government's Mental Health Strategy 2017-2027
- 13. MEDOC13 – Email 29.01.2018 to MLC including Planning Considerations Paper and Scottish Government Strategy
- 14. MEDOC14 – Email 31.01.2018 to Cllr Imrie and MLC Planners including Montpelier Mental Healthcare Provision paper
- 15. MEDOC15 – Email 29.01.2018 Staff Breakdown

**MIDLOTHIAN COUNCIL****DEVELOPMENT MANAGEMENT  
PLANNING APPLICATION DELEGATED WORKSHEET:****Planning Application Reference: 17/00587/DPP****Site Address:** Land North West of Melville Gate Road, Dalkeith

**Site Description:** The site is located to the north of Dalkeith and to the south of Sheriffhall Roundabout. It is located to the north of Melville Gate Road, with A68 to the east and the A7 to the west. The site forms part of an open area of land currently, in the main, in agricultural use. Immediately to the north west of the site boundary and to its south east boundary, there is woodland planting. The site slopes down to the north east towards the Dean Burn, the change in levels amounts to approximately 8m.

**Proposed Development:**

The proposed development is for the erection of a residential care home with associated access, car parking, landscaping and works. The main use of the site has been described by the applicant as an independent hospital and as an independent residential/rehabilitation hospital and as a use that is within Class 8A of the Town and Country Planning (Use Classes) (Scotland ) Order 1997. Class 8 Relates to Residential institution and Class 8a is described as being *for the provision of residential accommodation and care to people in need of care other than a use within class 9 (houses)*.

**Proposed Development Details:**

Two phases of development are proposed on the site in two separate buildings. Phase A is to the north and B to the south. A total of 61 car parking spaces are shown on the site between the two buildings. The northern building has three areas of gardens (two described private and one communal, two to the north and one to the south of the building). The gardens are fenced with 4m high dark green security fencing. Retaining structures and walls are shown around the boundaries of the site. Boundary treatments are a mix of post and rail fencing and 2m high fencing. Gradients towards the boundaries of the site are noted as having 1:3 gradient.

The Phase A building is 2 storeys and has 34 en-suite bedrooms. In addition an enhanced care bedroom is proposed on each floor. The building is described as being fully self-contained with Day/Dining Space, Kitchen, Laundry, Offices and Learning Spaces for IT Sills, Arts, Personal Fitness, Health and Domestic Skills.

Cycle and refuse provision is made adjacent to Phase A building and noted on Phase B.

Access to the site is from the Melville Gate Road and is taken through existing woodland planting along this road boundary. A tree survey submitted with the application has been used to identify the trees on the site that are to be removed.

The proposal is described as a low traffic generator with flexible visiting hours, off peak staff and service movements and no resident car ownership. Finishes proposed are facing brick and smooth render with concrete tile roofs, zinc entrance canopies and aluminium windows.

The hospital is described as being set within a high quality landscape setting for the benefit and stimulation of the patients.

The Design and Access Statement submitted in relation to the planning application describes the use as being an Independent Residential/Rehabilitation Hospital. The document describes the number of schemes that the applicant has around the county as providing *investment, jobs and most importantly of all, improved patient care pathways with quicker and more successful outcomes.*

The Planning Supporting Statement describes the proposal as a *Class 8A Low Secure Care Hospital*. This Planning Statement includes the following:

- *The application is considered to be supported by a number of Development Plan Policies and the economic benefits it will bring to Midlothian is considered a weighty material consideration in the determination of this application.*
- *Montpelier Estates have, in liaison with the selected operator, determined that a need exists within the wider Midlothian area for a Class 8A low secure hospital facility.*
- *The subject site has been selected as it can meet this identified need in an appropriate manner and in a sustainable location, in close proximity to where that need stems from. It is best for all parties if care can be delivered in close proximity to the user group. This allows families and friends to visit and support those in care. It also allows for staffing to, in the main, be sourced locally.*
- *The facility is expected to generate circa 122 jobs, with spin-off requirements further boosting the schemes economic impacts.*
- *The facility will employ local staff with just a few managerial roles attracting specialist skills. These people will relocate into Midlothian and also therefore become locals.*
- *The hospital will seek to work in conjunction with local education institutions to provide a direct link to practical training. It will also provide direct training, offering the opportunity for staff to progress within the organisation.*

An explanation of secure settings in relation to this planning application is given as follows:

*Secure mental healthcare accommodation is provided for patients detained under the Mental Health Act. They will have been placed under the care of Psychiatrist and a team of carers with a view to be treated for their illness and returned to living in their own community.*

*Healthcare is provided in a number of settings:*

- *High Secure*
- *Medium Secure*
- *Low Secure*
- *Locked Rehabilitation*

- Open rehabilitation
- Monitored hostel type accommodation

*At the highest two levels patient are considered to be potential danger to the public. It is quite probable that they will have been sectioned for a committable offence. Low secure accommodation, as proposed at Sherrifhall South, is appropriate when the patient is considered to be in danger of harming themselves. Locked rehabilitation provides for patients closer to integration into the community but still require constant nursing care and supervision. There will be some contact with the community in educational establishments, employment and home visits but these are on an escorted basis. Open rehabilitation facilities are set in communities – ideally in town centres – and provide a safe haven for patients who are gradually coming to terms with dealing with society before they are finally discharged.*

Latterly and following a meeting with Council officers the applicants agent submitted an email stating that the number of jobs at the site had increased to around 125, it would generate inward investment of around £14 million and annual trading of £750,000. A breakdown of the jobs was provided, as follows:

Hospital director	1
Psychiatrist	2
Psychologist	2
PA to hospital director	1
Mental health officer	1
Medical secretary	2
Secretary	3
Finance	2
Reception	6
Senior nurse	12
Ward manager	4
Nurse	24
Health care assistant	40
Head of OT	1
OT therapist	6
Maintenance	4
Catering manager	1
Kitchen	6
Household manager	1
Laundry	3
Grounds	3
TOTAL.	125 full time equivalent posts.

A service strip and pumping station are shown out with the site boundary and to the west, between the boundary and the adjacent stand of tree planting. There is a bus stop adjacent to the site access.

The wider Sheriffhall South site includes the Elginhaugh Public House and Restaurant which was granted planning permission (13/00848/DPP) in February 2014 for the following reason:



*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.*

This remains the only development on the Sheriffhall South economic development land to date.

**Background (Previous Applications, Supporting Documents, Development Briefs):**

There are two further applications for the Sherrifhall South Economic Development Site which are currently under consideration. The first is for Infrastructure at the site – roads and drainage (17/00508/DPP). The second is for the Erection of a petrol filling station, retail provision and two Class 3 units 17/00537/DPP, both with a drive through element. The latter application is to be considered by the Planning Committee and the target date for the Planning Committee is 15 May 2018.

The applicant has submitted a Planning Supporting Statement, a Design and Access Statement, a Tree Survey and Arboricultural Constraints Report, a Transport Statement, a Surface Water Management Plan, a Phase 1 Habitat Assessment and Badger Survey, a Flood Risk Assessment, a Landscape Schedule, a desktop Site Investigation Survey, an Acoustic Report and an Archaeology Desk Based Assessment.

**Consultations:**

**Transportation** – No objections in principle but has concerns re aspects of the design and suggests conditions relating to vehicle access details, timing of the provision of SUDs, upgrading of existing bus stop by providing shelter and footpath link and the entering into of a S75 agreement with the applicant re the A7 Urbanisation/Environmental Scheme.

Some discrepancies are indicated on the plans.

**SEPA** – No objection on flood risk grounds. Comments relate to a review of the FRA and that as the Dean Burn is some 113m to the north and 6m below the site level, there is no significant risk of flooding.

**Scottish Water-** The proposed development will be fed from **Rosebery Water** Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity at this time so to allow Scottish Water to fully appraise the proposals further submissions are required by the developer.

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not normally accept any surface water connections into Scottish Water's combined sewer system.

Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws.

**SNH - Badgers** - The report has found no badger setts within or adjacent to the development site. However, given the recorded disused badger setts nearby SNH

recommend a pre-construction follow up survey. In addition, given the likely use of the area by badgers then we recommend that the measures outlined in the report to avoid harming badgers during construction are implemented.

Bats - Once the trees that require felling or pruning have been identified then we recommend that a preliminary ground level bat roost assessment is undertaken. Following this SNH may be able to advise on the need for further surveys and/or mitigation.

**Environmental Health** – No noise or light issues are anticipated.

Conditions are suggested in relation to contamination survey, reporting and mitigation measures.

**Coal Authority** - The Coal Authority concurs with the recommendations of the Phase 1: Desk Top Study 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 LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

A condition should therefore require prior to the commencement of development:

- \* The submission of a scheme of intrusive site investigations for approval;
- \* The undertaking of that scheme of intrusive site investigations (subject to agreement with the Coal Authority's Permitting Team);
- \* The submission of a report of findings arising from the intrusive site investigations;

**Archaeology** – recommends an archaeological trial trench evaluation be undertaken of the proposed development site, prior to any development being undertaken, totalling 10% of the whole development site area. The archaeological work can be secured by a condition of consent.

**Economic Development** – Recommendation from Economic Development viewpoint would be to **refuse** this planning application.

- The land is currently zoned as employment land for business use [class 4].
- This site is highly important to the economic land supply in Midlothian. Its location is very good for industrial development, being situated on the A7 southwards and to the By-pass for east, north and central Scotland. The proposed future grade separation of Sheriffhall roundabout will further enhance this site as an industrial location.
- Midlothian is short of industrial sites.
- 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 our priority areas.

- Inward investment to Midlothian is low due to 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 are only now really stepping up we expect that trend to increase.
- Whilst we have requests for a variety of sizes of premises the largest number are for premises of 1 – 186m<sup>2</sup> [1 – 2,000ft<sup>2</sup>] 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.
- There is also a lack of serviced office spaces within Midlothian.
- The higher skilled and paid jobs will be recruited via NHS procedures and the extent to which we can maximise the appointment of Midlothian residents to these posts will be limited. This means that the majority of new posts available will to Midlothian residents tend towards ancillary roles and/or entry level posts with lower wages and skill levels.
- We are aware that existing nursing homes/social care providers are having difficulty in recruiting and if the nursing posts were filled from within Midlothian it would likely be by displacement of existing employees rather than drawing from a pool of suitable candidates who are currently not working in the sector.
- In terms of economic growth we are looking to have spaces that variously allow for;
  - start-ups to be established and grow then moving on into larger premises [possibly on different sites in Midlothian or on the same site]
  - inward investment with companies seeking larger/more suitable premises in Midlothian to take advantage of the improved transport links including the Borders Railway
  - expansion with Midlothian with existing companies seeking larger/more suitable premises. None of these would happen with this proposal. Once established the size of the facility is highly unlikely to alter [indeed it may be inimical to the design and ethos of the facility for it to grow larger] therefore there is no provision for expansion or growth in turnover/employment etc. once established.
- The figures for Inward Investment and particularly “annual local trading” are stated without any supporting evidence. I am not aware that there are any planning conditions that can enforce these actions. It may be that the facility would cost £14m to build and that it might spend £750,000 p.a. on services and supplies of one type or another. However, as far as I am aware, there is no way of guaranteeing that such spend is made with Midlothian based companies.

### **Representations:**

One letter of representation has been received in relation to the planning application. Miss H Tibbetts objects to the application on the grounds that it 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). In addition the objector states that the proposed development would have a detrimental effect on the area's wildlife, something that developers never take into account. The area is known to be home to populations of badger, deer and fox. Wiping out these populations, or at the very least the destruction of their precious habitat, would be a great loss not only for them, but for Midlothian's residents.

#### **Relevant Planning Policies:**

The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Plan, adopted in December 2008. The following policies are relevant to the proposal:

**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.

**Policy ECON1: Existing Employment Locations** seeks to safeguard those sites allocated for economic land uses.

**Policy ECON3: Ancillary Development on Business Parks** supports the principle of ancillary uses (such as child day care services, banking, convenience, healthcare services) at Shawfair Park and Salter's Park where these are of a scale suitable to service the existing and expanding workforce and business community at these locations.

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

- A. 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
- B. the preparation of a masterplan indicating the scale, location and timing of provision.

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

**Policy DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.

**Policy DEV6: Layout and Design of New Development** sets out design guidance for new developments.

**Policy DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.

**Policy TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.

**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.

**Policy IT1: Digital Infrastructure** seeks to ensure new business properties should be designed in such a way as to incorporate high speed broadband connections and other digital technologies that could optimise the energy efficiency and contribute to reducing the carbon footprint of the building.

**Policy ENV1: Protection of the Green Belt** which does not permit development unless for specific purposes, including *a form of development that meets a national or established need if no other site is available*. The overall objective of the policy includes *directing development to the most appropriate locations*.

**Policy ENV4: Prime Agricultural Land** does not permit the loss of prime agricultural land unless, and of particular relevance to this application, the site is allocated as part of the development strategy of the Midlothian Local Development Plan or where, in certain circumstances, the development is needed to meet an established need.

**Policy ENV2: Midlothian Green Networks** supports development proposals brought forward in line with the provisions of the Plan that help to deliver the green network opportunities identified in the Supplementary Guidance on the Midlothian Green Network.

**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.

**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.

**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.

**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.

**Policy ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.

**Policy ENV 17 Air Quality** states that the Council may require further assessments to identify air quality impacts where considered requisite.

**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.

**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.

**Policy NRG 3 Energy Use and low and Zero Carbon Generating Technology** identifies that demand for energy should be limited through good design and layout on a site. Compliance with Building Regulations is required and measures to achieve higher levels of sustainability are encouraged.

**Policy NRG 4 Interpretation of Policy NRG3.**

**Policy NRG 6 Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.

**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 education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision.



**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.

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

**Strategic Development Plan (SDP) for Edinburgh and the South-East Scotland (approved in 2013)** contains the following relevant policies:

**The Spatial Strategy** identifies the A7/A68/Borders Rail Corridor in Midlothian as a Strategic Development Area and in terms of growth and development. The emphasis is on additional employment opportunities to reduce the need to commute and implementation of the transport infrastructure to accommodate further phased growth.

**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 below. Local Development Plans should also ensure that this provides a range and choice of marketable sites to meet anticipated requirements....

Midlothian / Borders 124 hectares

**The Proposed Strategic Development Plan for Edinburgh and South East Scotland** dated October 2016 has been the subject of Enquiry and a report is likely to be issued in June 2018. The proposed plan continues to identify the Dalkeith area as being adjacent to the Long Term Growth Corridor, and as an area of Strategic Growth up to 2030+.

In relation to Employment Land Supply the Proposed Strategic Development Plan identifies the aim to achieve the vision of a thriving, successful and sustainable city region and that it is essential that there is sufficient employment land which is both available and situated in the right locations to provide jobs to meet the region's growing population. Local Development Plans, it states, will identify and safeguard a sufficient supply of employment land taking account of market demands and existing infrastructure. This land should be able to deliver sites which are serviced or are serviceable over the plan period.

The proposed Strategic Development Plan also states that Local Development Plans will identify and safeguard large scale employment sites where necessary in line with the spatial strategy and, where appropriate, within the significant business clusters. This is to ensure employment

opportunities are accessible by public transport and walking and cycling networks, to enable the regeneration of former sites and to strengthen the region's key economic sectors. The proposed Strategic Development Plan further states Local Development Plans will support diversification and re-categorisation of existing employment sites where this facilitates wider business opportunities, mixed-uses or an increased density of development, whilst ensuring an overall sufficient supply of employment land is maintained.

Scottish Planning Policy 2014 (SPP) includes policies in relation to creating a successful sustainable place – supporting economic growth, regeneration and the creating of well-designed places.

In relation to Supporting Business and Employment the following points are made in relation to what the planning system should do:

- 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.

SPP goes on to say that plans should align with relevant local economic strategies. These will help planning authorities 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;
- financial and business services.

The SPP introduces a presumption in favour of development that contributes to sustainable development, however it is further stated 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.*

## **Planning Issues:**

The main planning issue to be considered is whether the development complies with development plan policy and if not whether material considerations indicate that the development should be considered otherwise.

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.

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."*

The proposed development is for a care hospital (Low secure setting) with one block being more secure than the second (the second phase being less secure). This use falls within the definition of Class 8 Residential Institutions (as defined in the Town and Country Planning (Use Classes) (Scotland) Order 1997. This class includes the following:

Use

- (a) for the provision of residential accommodation and care to people in need of care other than a use within class 9 (houses);
- (b) as a hospital or nursing home; or
- (c) as a residential school, college or training centre.

The site is identified as being within the Green Belt and it is identified as a site for Economic Development purposes in the Midlothian Local Development Plan (adopted in November 2017). Policy ENV1 Protection of the Green Belt identifies the site as being within this designation and the policy only allows development on sites that are within the green belt for purposes identified in the Local Development Plan.

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.

Policy STRAT 1 seeks the early implementation of all committed economic development sites, of which, South Sheriffhall is one. Policy ECON 1 Existing Employment Locations, states that the introduction of non-business or industrial uses will not be permitted on these sites.

Policy ECON 3 Ancillary Development on Business Parks supports such ancillary uses (such as child daycare services, banking, convenience, healthcare services, etc.) at Shawfair Park and Salter's Park where they are of a scale suitable to service

the existing and expanding workforce and businesses at these locations. In addition ancillary development at these two locations will also be considered against the uses not having an impact on Dalkeith town centre or Shawfair. The provision of a masterplan showing the scale, location and timing of the provision is required by the policy. It is further stated that where substantive development is yet to commence, support for such ancillary uses will only be considered if it is likely to act as an enabler to attract further investment to that business location.

The Council granted planning permission for the Elginhaugh Pub Restaurant. The permission was granted in 2013 with development taking place shortly thereafter. No business uses have taken place on the site following the granting of this consent and its implementation.

The applicant states in support of the application that the development results in a number of material benefits to the local community as follows:

- The provision of a range of new employment opportunities during both the construction and operational phases.
- A development which acts as a catalyst and promotes Sheriffhall South Business Park as a desirable location.
- Over 2 phases, upwards of £9m of inward investment to Midlothian.
- Additional expenditure in local shops and services.
- The provision of accommodation that shall take pressure off hospital bed spaces.
- The provision of bespoke, registered hospital accommodation which shall release pressure on local GP services.
- Improved health for the community through the provision of secure, comfortable accommodation and companionship within a stimulating, caring environment.
- Employment for 90 full time equivalent members of staff working in shift patterns.

However having had some discussion with the Head of Adult and Social Care within the Council the following comments have been made in relation to the proposal:

- Lack of provision locally – this has been recognised and as part of the redesign of the Royal Edinburgh site there will be new low secure provision. This is preferable for us than utilising a private facility as our pathway from secure to community provision will be facilitated by the same team with a commitment to improving outcomes for the individual. Midlothian already has a low use of in-patient beds due to the way in which we work. The likelihood of Midlothian ever needing to use this resource is extremely slim.
- Employment – we are already struggling to recruit care staff within Midlothian. A resource of this size and scale which is not delivering services to Midlothian residents would have a significant impact on other services which are delivering for the people of Midlothian.
- Use of resource – as we would have very little input into the unit I would assume that the majority of people would come from out of area. If however there were concerns about the unit, e.g. Adult Support and Protection, responsibility for managing those concerns would sit with Midlothian which would have a significant impact upon us.

The applicant has put forward an argument that the proposed use is particularly relevant to Midlothian for a number of reasons and that these points should be taken into account as a persuasive argument and material consideration in relation to the proposal. In seeking some comment internally from colleagues it appears that much of what has been said is not persuasive in looking at a Midlothian specific provision or employment.

Economic Development land such as this site is allocated to secure employment growth for, in this case, business uses. It is made clear in the relevant policies that it is not acceptable to develop these sites for alternative purposes.

The Council's Economic Development Advisor recommends refusal of this application and that the site be safeguarded for the uses identified in the recently adopted Midlothian Local Development Plan. There is a demand, it is advised, for a variety of sizes of units, in particular 'roller-shutters' of 1-186m<sup>2</sup>. It is also noted that there is a lack of high quality office/co-working spaces for start-up/spin off companies as well as serviced office spaces in Midlothian. Further concern is expressed in relation to the stated inward investment and annual trading figures with no supporting evidence. There is no way to ensure that spend is made with Midlothian based companies. The majority of new posts available to Midlothian residents tend towards ancillary roles and/or entry level posts with lower wages and skill levels. There are also difficulties in recruiting for nursing homes/social care providers and, it is advised, and that if nursing posts were filled from within Midlothian it is likely to be by displacement of existing employees rather than drawing from a pool of suitable candidates who are currently not working in the sector.

The applicant makes the point that Local Development Plans do not allocate sites for this type of use. If a use such as the care hospital facility has acceptable environmental impacts or impacts can be appropriately mitigated, such a use would be acceptable within the built up area.

### **Landscape and Visual Impact**

The proposed development site is an irregular shape located between two areas of woodland planting (to the east and west) of the site. The northern elevation of Phase A building will be visually prominent owing to its location and also due to the proposed ground modelling which will raise ground levels up to 3 metres in some places. The site is located in proximity to the edge of Dalkeith Park, it is close to the category A listed King's Gate, walls and lodge. The development will be from the A6106 Old Dalkeith Road, thus affecting the perception of the setting of Dalkeith. Consideration should be given to the use of more sensitive cladding/fencing and additional appropriate screen planting would be required in order that the design of the proposed development would be considered acceptable. Additional appropriate screen planting to the south would soften the appearance of the building from this less sensitive southerly direction.

Owing to the building orientation and location the proposed communal garden and private garden areas to the north of the Phase A building would be predominantly in shade, especially the patio seating area by the building, whilst the car park area will receive good sunlight. If changes could be made to the building layout or relocation

of the communal and private gardens to improve this it would be to the benefit of the occupants. The applicant has indicated their resistance to such amendments. There is potential for therapeutic use of the outside areas, this could take the form of growing space and/or orchard and fruit tree planting.

The proposed development requires to be considered in relation to Policy DEV 6 – Layout and Design of New Development, which requires the layout of development proposals to complement or enhance the character of any adjoining or urban area and integrate the siting of buildings, landscaping, open space, boundary treatment and pedestrian/cycle/vehicular routes. In addition good quality materials should be used in the design. The proposed development comprises a first phase building which is almost entirely surrounded by a 4m high security fence. The building will be visible behind the security fencing which will be at a height on the building at just above the floor level of the first floor. Fence details can be secured by condition but the height of the fence and that it is of a secure design is a requirement of the proposed development.

The two buildings appear as an overdevelopment of the site, with the design utilising retaining structures to accommodate both buildings and the parking and associated development. The open garden areas to the north of the building on phase A will be over-shadowed by the building. The building on phase A will be viewed behind security fencing, in the main. Phase B has a 2m high timber fencing to the rear and sides of the building.

The proposed access to the site entails the removal of 29 trees, two of which are dead. There is a route adjacent which forms a gated access where trees have previously been felled, it would be better to re-locate the access to this location to minimise tree felling. In any event suitable re-planting for trees felled would be required to be secured by condition. A more general landscape condition (re soil management, tree protection, landscape provision and maintenance and management) can be secured, should the proposal be supported.

The inclusion of bird and/or bat boxes either within the building or within the woodland, would foster biodiversity in compliance with MLDP Policy DEV 5 Sustainability in new Developments, again this could be secured by condition.

### **Other Issues**

Conditions could address issues relating to building materials, drainage, access, landscaping, archaeology, district heating, 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 Obligations**

There has been some correspondence during the processing of this planning application in relation to the need or otherwise of developer contributions for this site. In particular the issue was raised by the Council's Transportation advisors suggesting that a contribution should be sought, by condition, for the A7 Urbanisation/Environmental Scheme. This scheme seeks to make the A7 between



the Hardengreen Roundabout and the roundabout to the west of the site into a more public transport/pedestrian/cycle friendly route. In discussions with the Developer Contributions Lead Officer it became apparent that the means of seeking the developer contributions for this Class of development (Class 8 Residential Institutions) was usually based on a trip rate generated by the number of resident on a site. In this case approximately half of the residents would be housed securely in the first phase of the development and would not be in a position to use the A7 Urbanisation/Environmental Scheme. Phase 2 of the development has residents in less secure accommodation however there is still a degree of supervision. The restricted use of the A7 Urbanisation/Environmental Scheme by residents of this class of development indicates that it is not appropriate to ask for a developer contribution for this purpose. Circular 3/2012 Planning Obligations and Good Neighbour Agreements, includes Policy Tests namely Necessity, Planning purpose, Relationship to proposed development, Scale and Kind, and Reasonableness.

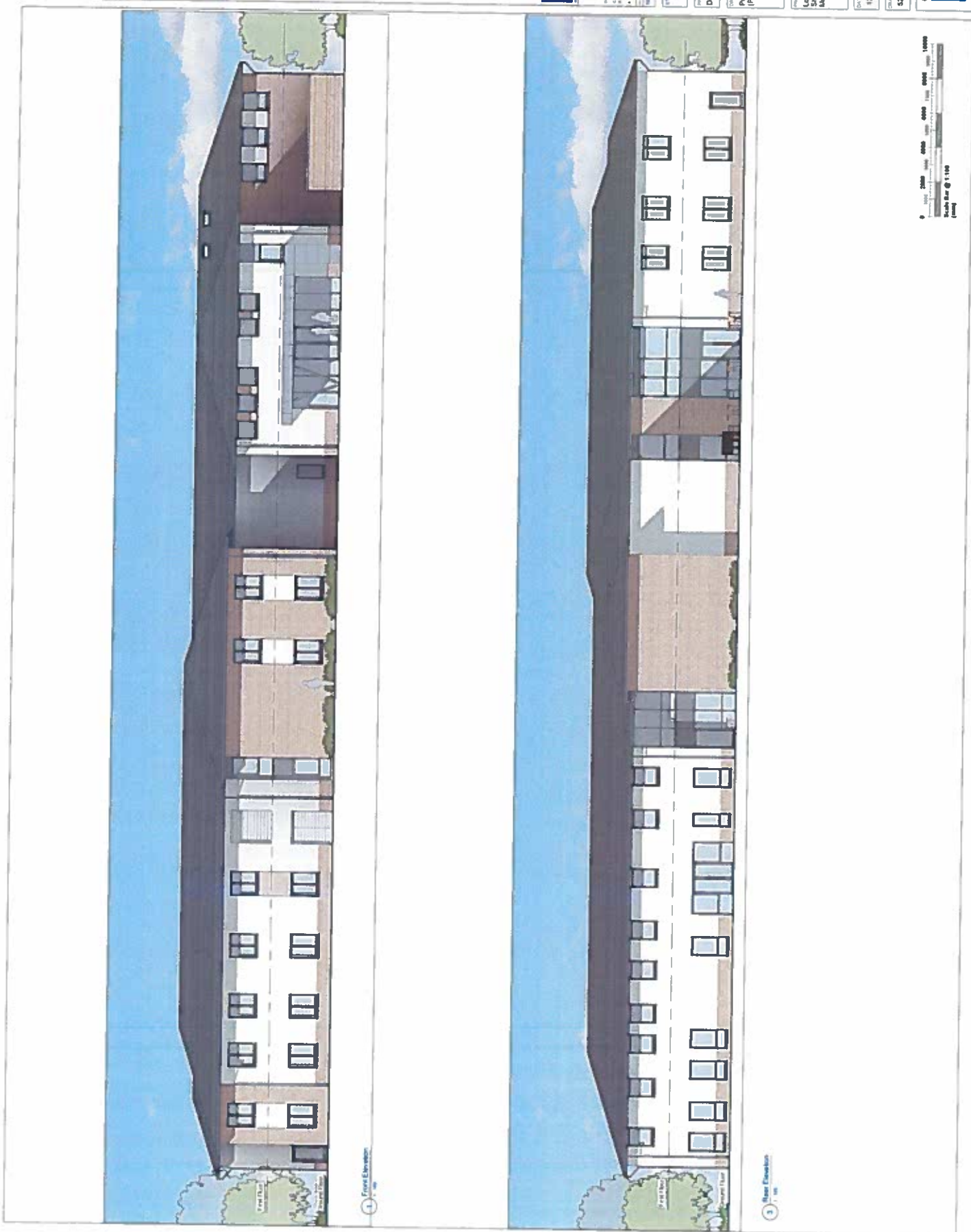
It should be noted that although this development is within the Borders Rail Corridor, the site is so distant from any of the stations that the Lead Officer, developer contributions has not asked for a contribution to be made towards the Borders Rail Line.

It should furthermore be noted that it would not be appropriate for a planning condition to seek the contribution, as suggested by the Transportation advisor. This would not meet the tests for conditions contained in Circular 4/1998 nor would it be compliant with the contents of Circular 3/2012, which states that developers should not be required to enter into a legal agreement.

**Recommendation:** It is recommended that the application is refused for the following reasons:

1. The proposed land use is 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. There are no material considerations that are considered to be of sufficient weight to indicate that the proposed development should be supported despite its non-compliance with development plan policy.





**INVESTOR IN PEOPLE**

Activity	Start Date	End Date	Status
Site Preparation	10/1/2017	12/31/2017	Complete
Foundation	1/1/2018	3/31/2018	Complete
Framing	4/1/2018	6/30/2018	Complete
Roofing	7/1/2018	8/31/2018	Complete
Exterior Finishes	9/1/2018	11/30/2018	In Progress
Interior Finishes	12/1/2018	2/28/2019	Not Started
Landscaping	3/1/2019	5/31/2019	Not Started
Final Inspection	6/1/2019	6/30/2019	Not Started

**PHASES SCHEDULE**

Phase	Start Date	End Date	Status
Phase 1: Site Preparation	10/1/2017	12/31/2017	Complete
Phase 2: Foundation	1/1/2018	3/31/2018	Complete
Phase 3: Framing	4/1/2018	6/30/2018	Complete
Phase 4: Roofing	7/1/2018	8/31/2018	Complete
Phase 5: Exterior Finishes	9/1/2018	11/30/2018	In Progress
Phase 6: Interior Finishes	12/1/2018	2/28/2019	Not Started
Phase 7: Landscaping	3/1/2019	5/31/2019	Not Started
Phase 8: Final Inspection	6/1/2019	6/30/2019	Not Started

**Montpelier**  
ESTATES

Item	Description	Quantity	Unit	Price	Total
1	Excavation and foundation	1	sq ft	100.00	100.00
2	Foundation concrete	1	sq ft	100.00	100.00
3	Foundation reinforcement	1	sq ft	100.00	100.00
4	Foundation waterproofing	1	sq ft	100.00	100.00
5	Foundation drainage	1	sq ft	100.00	100.00
6	Foundation insulation	1	sq ft	100.00	100.00
7	Foundation sealant	1	sq ft	100.00	100.00
8	Foundation repair	1	sq ft	100.00	100.00
9	Foundation maintenance	1	sq ft	100.00	100.00
10	Foundation inspection	1	sq ft	100.00	100.00

PROJECT # 1712

Developed Design

Proposed Elevations Sheet 1 of 2  
(Phase A)

PROJECT # 1712

Low Secure Residential Hospital at  
Hennepin County Jail, Minneapolis  
Montpelier Estates

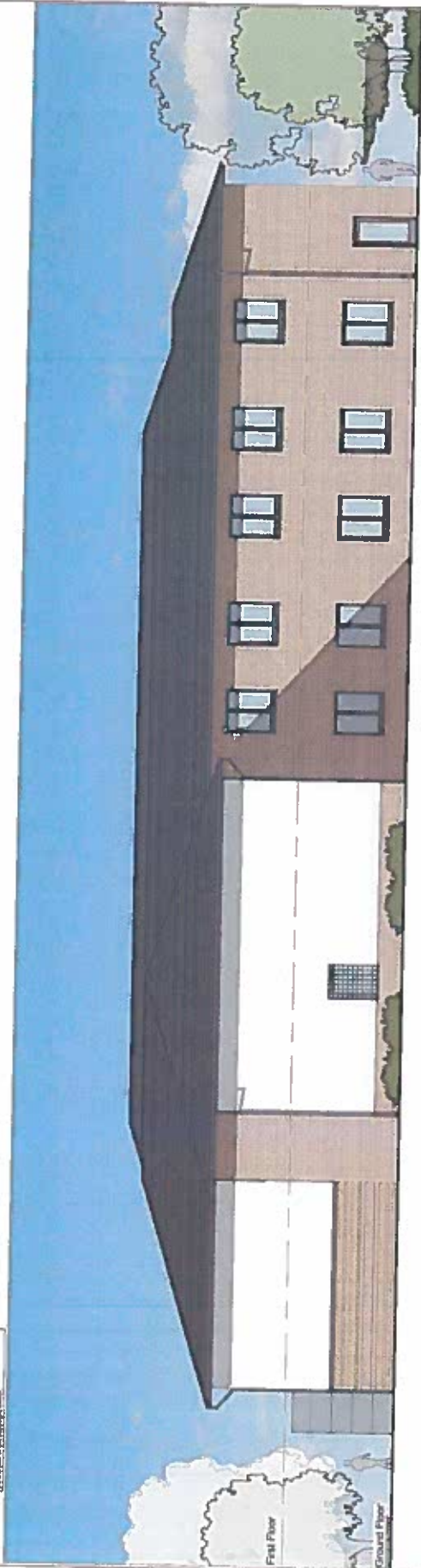
DATE CREATED: 12/08/17  
DRAWN BY: JRM  
SCALE: 1/8" = 1'-0"

PROJECT # 1712  
DATE: 12/08/2017

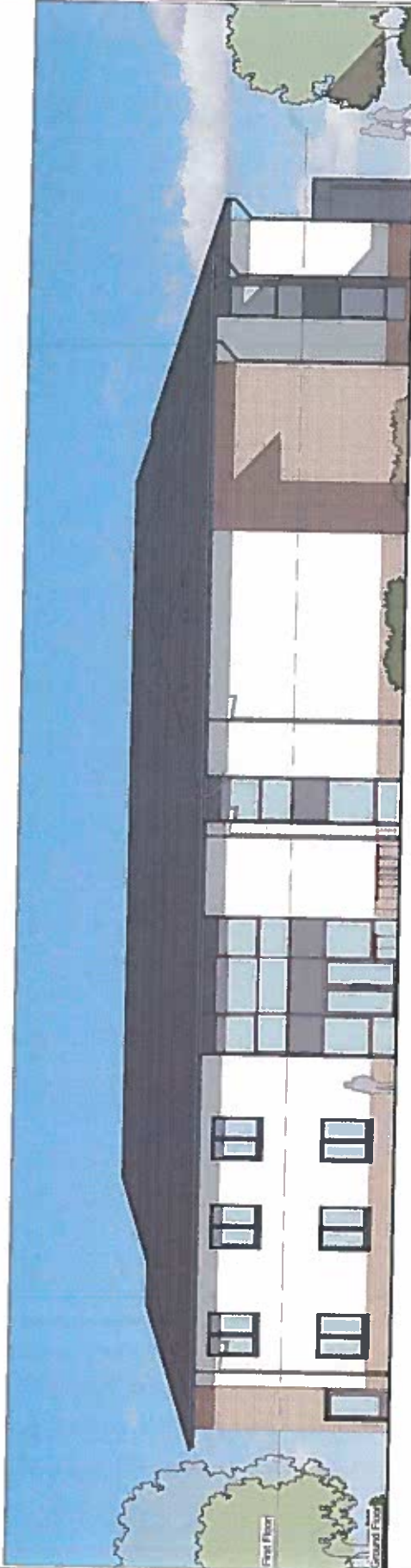
**oliver + robb architects**  
Plymouth Drive, Durham, NC  
704.281.1211  
www.oliverrobb.com



See page 10 for more details on the design process. The design process for this project was a collaborative effort between the client, the architect, and the engineer. The design process was iterative and involved many discussions and revisions. The final design was a result of the collaborative effort of all three parties.



1 Side Elevation 1  
1:100



2 Side Elevation 2  
1:100



# INVESTOR IN PEOPLE

HEALTH AND SAFETY  
ASSESSMENT  
TABLE

Activity	1	2	3	4	5
1. Design	1	2	3	4	5
2. Construction	1	2	3	4	5
3. Operation	1	2	3	4	5
4. Maintenance	1	2	3	4	5
5. Decommissioning	1	2	3	4	5

## FINISHES SCHEDULE

Roof	Dark grey profiled corrugated sheet
Canopy	Single ply membrane Set back with zinc finish
External Walls	Smooth white render Fogging brick, with white water joints as indicated
Windows	Double glazed dark grey aluminium frames
External Walling & Screens	Powder coated externally, internally dark grey aluminium
Doors	Powder coated aluminium doors in dark grey
Rampover Covers	Dark grey PVC



1. Design and Production Services	100%
2. Construction Services	100%
3. Operation and Maintenance Services	100%
4. Decommissioning Services	100%
5. Other Services	100%

## Developed Design

Proposed Elevations  
Sheet 2 of 2  
(Phase A)

Project: Low Secure Residential  
Hospital  
Sheriff Hill South by  
Dartmouth, Dartmouth  
Montpelier Estates

Client	CM
Scale	1:100

Project No.	52403/EL002
Revision	D

oliver + robb architects  
Architects, Dartmouth  
T: 0131 627121  
W: www.oliverrobb.co.uk



INVESTOR IN PEOPLE

HEALTH AND SAFETY RISK ASSESSMENT CONSEQUENCE TABLE			
Control Category	1	2	3
1. Major	4	5	6
2. Moderate	3	4	5
3. Minor	2	3	4
4. Negligible	1	2	3
5. Insignificant	0	1	2

FINISHES SCHEDULE

Roof	Dark grey precast concrete tiles
Cladding	Single ply membrane Red felt with zinc fence and soffit
External Walls	Oil White render Facing brick Dark grey aluminium sill and lintel indicated
Windows	Double glazed dark grey powder coated aluminium windows aluminium window sill and lintel indicated
External Walling & Screens	Powder coated aluminium aluminium
Doors	Powder coated aluminium doors on dark grey
Rampover Goods	Dark grey PVC

Montpelier  
OUTDOOR

1. Windows and Roof Eaves	PVC 1200/12
2. OSB Door impregnated	PVC 1100/11
3. Windows, Sill and Lintel and Facing of External Walling	PVC 1200/12
4. Windows	PVC 1200/12
5. Windows	PVC 1200/12

Developed Design

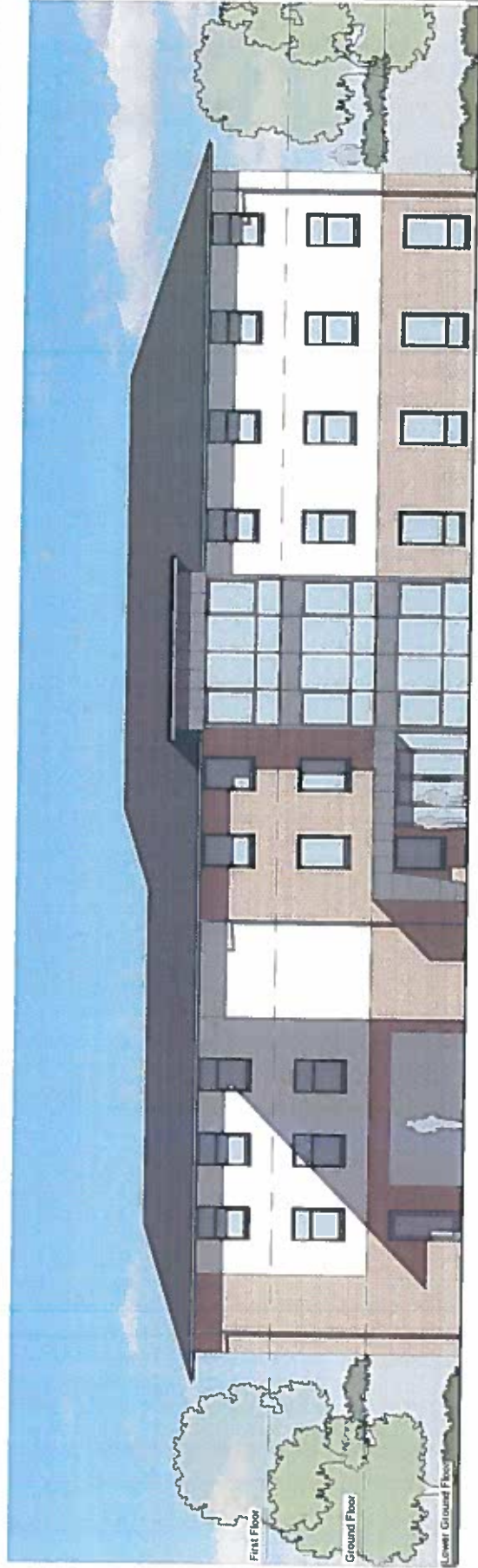
Proposed Elevations  
Sheet 1 of 2  
(Phase B)

Rehabilitation Hospital at  
Sheriffhall South by  
Dalketh, Midlothian for  
Montpelier Estates

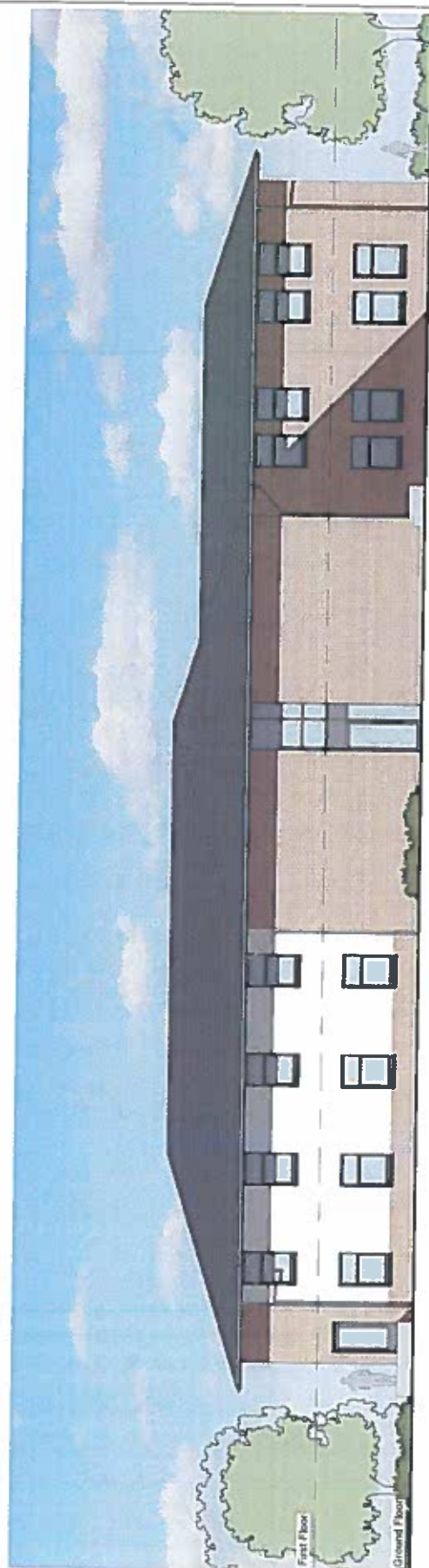
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DESIGNED BY	PT
SCALE	1:100

PROJECT NUMBER	5240(0)EL501
REVISION	C

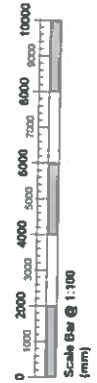
oliver + robb architects  
Preserve Drive, Durham  
CY11 6BH  
01382 621821  
www.oliverrobb.co.uk



1 Front Elevation  
1:100



2 Rear Elevation  
1:100







2018年12月

[illegible]

## FINISHES SCHEDULE

Reef	Dart grey painted corals and silt
Cave	Single grey mottling on the inside of social and soft
Vertical Walls	DT White under 5 ft Dart grey aluminum silt pencils as indicator
Windows	Double glazed dart grey pencil coated aluminum window frames (vertical side only)
Windows & Screens	Pencil coated grey aluminum window screens
Doors	Pencil coated aluminum doors in dart grey
Staircase & Ramps	Dart grey PVC

[illegible]

Developed Design

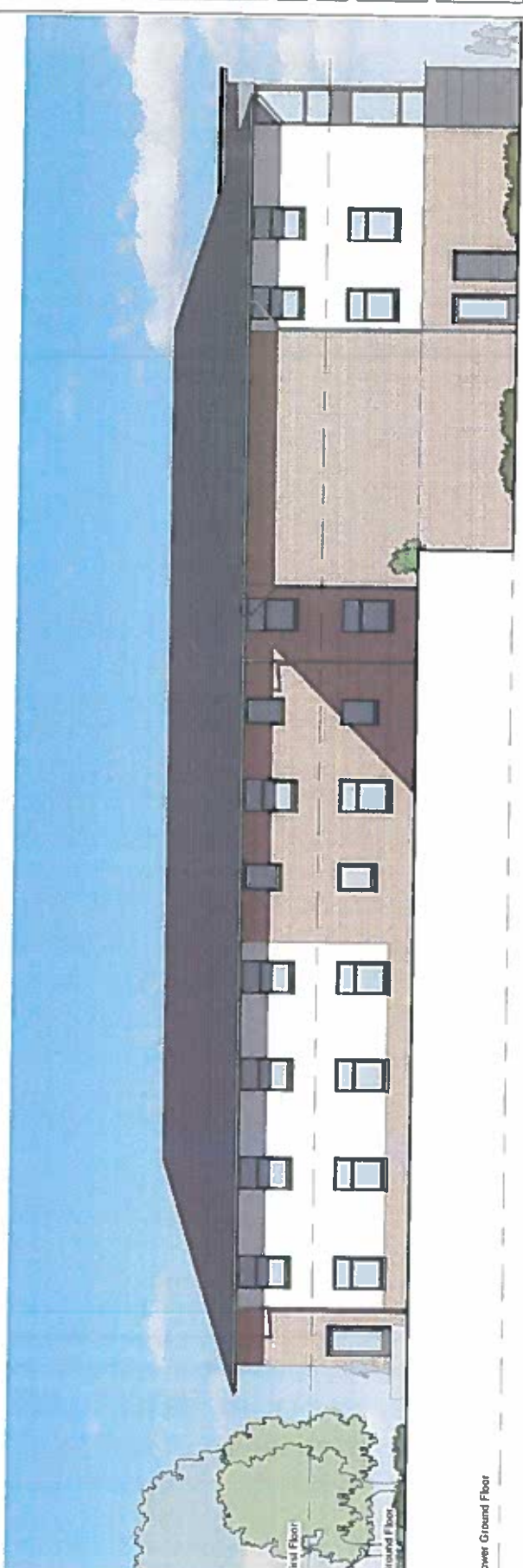
Proposed Elevations  
Sheet 2 of 2  
Phase B)

Rehabilitation Hospital at  
Sheriff's South by  
Dalkeith, Midlothian for  
Montpelier Estates

**live + robb architects**  
 Pasadena, CA  
 714.791.1111  
 www.liverobb.com



1 Side Elevation 1  
1 100



Side Elevation 2





