



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

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

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

2 LOCATION AND SITE DESCRIPTION

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

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

3 PROPOSAL

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

4 BACKGROUND

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

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

5 CONSULTATIONS

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

Flood Risk

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

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

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

Former mine workings

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

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

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

Water

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

Foul

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

- 5.13 Scottish Water is unable to reserve capacity at its water and/or waste water treatment works for the proposed development. Once a formal connection application is submitted to Scottish Water, after planning permission has been granted, they will review the availability of capacity and advise the applicant accordingly.

- 5.14 **Network Rail** do not object to the application subject to the following conditions being imposed on a grant of planning permission:

1. The applicant must provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal should be made. Details of the proposed fencing shall be submitted to the planning authority for approval before development is commenced and the development shall be carried out only in full accordance with such approved details.

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

2. No development shall take place on site until such time as a surface and foul water drainage scheme has been submitted to and approved in writing by the planning authority. Any Sustainable Urban Drainage Scheme (SUDS) must not be sited within 10 metres of the railway boundary and should be designed with long term maintenance plans which meet the

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

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

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

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

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

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

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

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

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

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

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

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

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

Railway Noise and Vibration

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

Secondary/Primary Schools and Early Learning Provision

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

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

Plant Machinery Noise/Class 4 Use

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

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

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

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

Contaminated land

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

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

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

Construction Site Works

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

Air Quality

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

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

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

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

Pollutants to be considered include PM₁₀, PM_{2.5} and NO₂. It is recommended that the report contains the information detailed in paragraph 6.18 of 'Delivering Cleaner Air for Scotland' Development Planning and Development Management guidance.

Odour emissions

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

6 REPRESENTATIONS

- 6.1 No representations have been received.

7 PLANNING POLICY

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

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 **Policy 2** (Supply and Location of Employment Land) states that the Strategic Development Plan supports the development of a range of marketable sites of the size and quality to meet the requirements of business and industry within the SESPlan area. Local Development Plans will support the delivery of the quantity of the established strategic employment land supply as identified. Local Development Plans should also ensure they provide a range and choice of marketable sites to meet anticipated requirements.

- 7.3 **Policy 3 (TOWN CENTRE AND RETAIL)** aims to promote a sequential approach to the selection of locations for retail and commercial leisure proposals.

Midlothian Local Development Plan 2017 (MLDP)

- 7.4 Policy **STRAT1: Committed Development** seeks the early implementation of all committed development sites and related infrastructure, facilities and affordable housing, including sites in the established housing land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP.
- 7.5 Policy **STRAT5: Strategic Employment Land Allocations** supports development for employment uses on sites identified as strategic employment land allocations.
- 7.6 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.7 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.8 Policy **DEV6: Layout and Design of New Development** requires good design and a high quality of architecture, in both the overall layout of developments and their constituent parts. The layout and design of developments are to meet listed criteria.
- 7.9 Policy **DEV7: Landscaping in New Development** requires development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment.
- 7.10 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.11 Policy **TRAN5: Electric Vehicle Charging** seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.
- 7.12 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.13 Policy **TCR1: Town Centres** supports proposals for retail, commercial leisure development or other uses which will attract significant numbers of people in Midlothian's town centres, provided their scale and function is consistent with the town centre's role. In support of this policy the

Council will prepare supplementary guidance on food and drink and other non-retail uses in town centres; this guidance will also include guidance in respect of food and drink and hot food takeaways out with town centres. The guidance is currently being prepared by the Council.

- 7.14 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environmental.
- 7.15 Policy **ENV24: Other Important Archaeological or Historic Sites** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting.
- 7.16 Policy **ENV25: Site Assessment, Evaluation and Recording** requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the likely impact of the proposal on the archaeological resource.
- 7.17 Policy **NRG6: Community Heating** requires that, wherever reasonable, community heating should be supported in connection with buildings and operations requiring heat.
- 7.18 Policies **IMP1: New Development** and **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** require the developer to deliver, or contribute to, the required infrastructure to mitigate the impact of the development.
- 7.19 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.
- 7.20 The MLDP Danderhall/Shawfair settlement strategy clarifies that development should proceed in line with the existing planning permission for the Shawfair community and the Shawfair Masterplan and Design Guide (and the associated addendums) which set out the development framework for the Shawfair development and both of which are approved supplementary planning guidance and are significant material considerations.

8 PLANNING ISSUES

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

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

The Principle of Development

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

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

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

Layout and Form of Development

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

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

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

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

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

Access and Transportation Issues

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

Landscaping

- 8.10 Owing to the location and proximity of shelter belts of mature trees on and adjacent to the site, a tree and arboricultural survey should be commissioned to assess the condition of these trees and the likely impact on them from the proposed development. This should then be used to inform the layout and design of the buildings and to identify where trees can be retained and incorporated into the development if they are in good condition. Mitigation planting may also be required. This can be secured by a condition imposed on a grant of planning permission.
- 8.11 In their consultation response Network Rail inform that certain broad leaf deciduous species should not be planted adjacent to the railway boundary in order to control the impact of leaf fall on the operational railway. Network Rail can provide details of recommended planting. All landscaping, including planting, seeding and hard landscaping should be carried out only in full accordance with such approved details. It can be made a condition of a grant of planning permission that the landscaping for the development should be for consideration in a further application in consultation with Network Rail.

Ecology/Biodiversity

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

Communal Heating System

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

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

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

Flooding

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

Environmental Health Matters

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

Other matters

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

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

9 RECOMMENDATION

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

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

Subject to the following conditions:

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

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

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

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

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

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

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

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

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

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

Thereafter the approved details shall be implemented in full.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason: *In the interests of visual amenity.*

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

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

28. The development shall adhere to the following constraints:

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

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

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

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

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

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

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

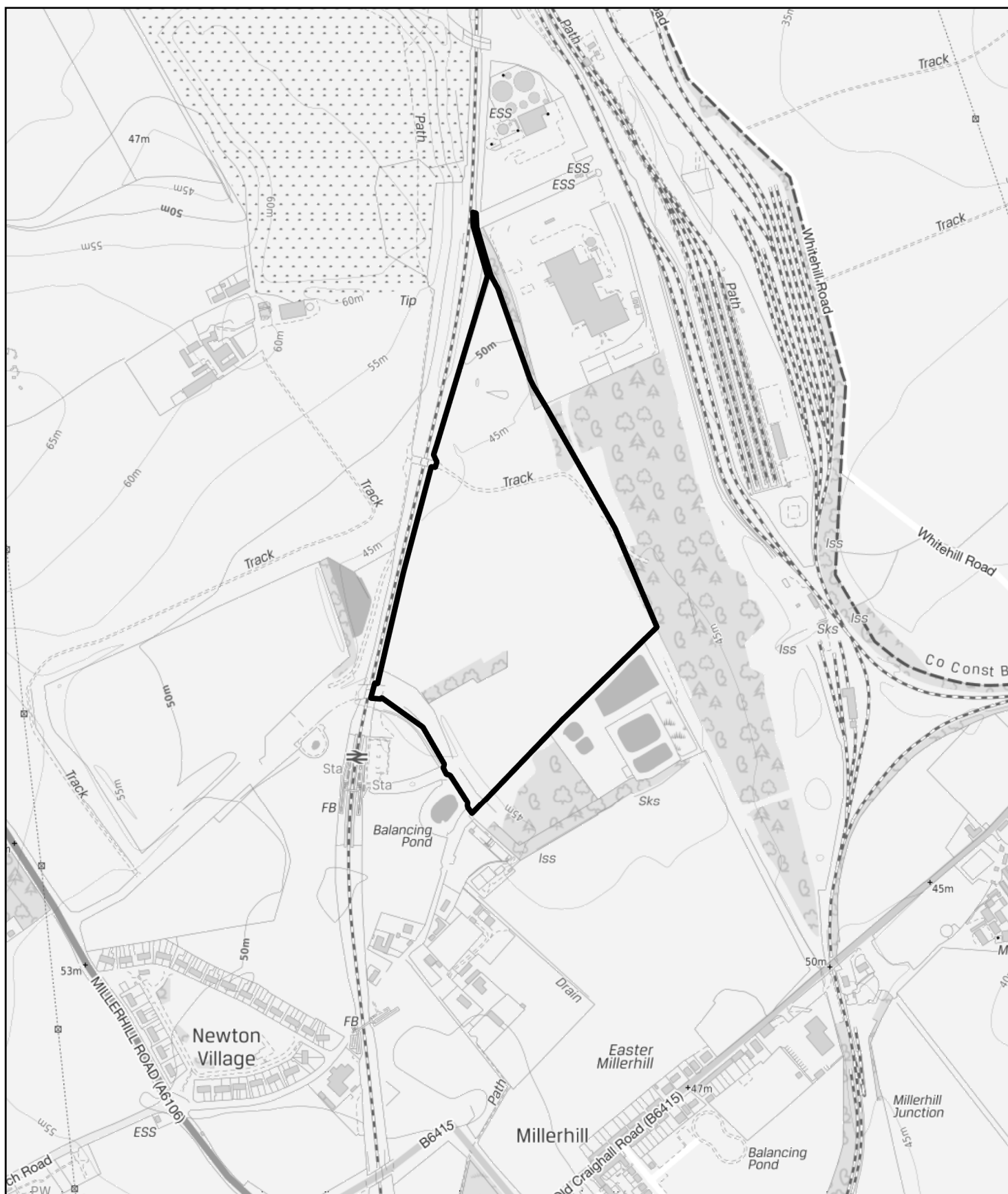
Reason for conditions 29 to 34: To prevent noise or vibration levels from adversely affecting the occupants of noise sensitive properties at the site.

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

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

Dr Mary Smith
Director of Education, Communities and Economy

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



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

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

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File No: 19/00112/PPP

Scale: 1:7,500

