



SECTION 42 APPLICATION 22/00588/S42 TO AMEND CONDITIONS 4.VIII, 5.I, 5.III, 5.IV, 7 AND 9 OF PLANNING PERMISSION 17/00559/S42 (BUSINESS AND GENERAL INDUSTRIAL DEVELOPMENT) REGARDING ACCESS ARRANGMENTS, THE PROVISION OF HIGH SPEED FIBRE BROADBAND AND ELECTRIC VEHICLE CHARGING STATIONS AT LAND SOUTH WEST OF NEWTONLOAN TOLL, GOREBRIDGE

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 In November 2012 planning permission in principle (07/00556/OUT) was granted for Class 4 (business) and Class 5 (general industrial) uses on land to the south west of Newtonloan Toll, Gorebridge. In December 2019 a new planning permission in principle (17/00559/S42) was granted for the development without compliance with condition 8 (provision of zero and/or low carbon equipment) of the original grant of planning permission. The current planning application seeks to amended conditions; 4.viii (pedestrian/cycling links), 5.i (vehicular and pedestrian access), 5.iii (proposed signalised junction access layout), 5.iv (existing traffic lights at Newtonloan Toll), 7 (high speed fibre broadband) and 9 (electric vehicle charging stations).
- 1.2 There have been no representations received and consultation responses from the Council's Ecological Advisor (TWIC) and the Council's Senior Manager Neighbourhood Services (Roads).
- 1.3 The relevant development plan policies are policy 2 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies STRAT1, DEV2, DEV5, DEV6, ECON1, TRAN1, TRAN5, IT1, IMP1 and IMP2 of the Midlothian Local Development Plan 2017. Policies 13, 14, 15, 18, and 24 of the draft National Planning Framework 4 (NPF4) are also material considerations.
- 1.4 The recommendation is to grant planning permission subject to conditions and the applicant entering into a planning obligation to secure contributions towards necessary infrastructure.

2 LOCATION AND SITE DESCRIPTION

- 2.1 The 9.7 hectare site lies immediately to the south west of Newtonloan Toll, Gorebridge. It is bounded to the north by the B704, Cockpen Road, to the east by the A7 with housing beyond, to the south by the access road from the A7 to Redheugh Farm with agricultural land beyond and to the west by the Borders Railway with agricultural land beyond. The surrounding agricultural land is the site for the new Redheugh/Prestonholm community (housing site h50 in the Midlothian Local Development Plan 2017) for which planning permission in principle 15/00045/PPP was granted on 17 November 2017.
- 2.2 The application site itself remains largely agricultural land, with some woodland in the north-west part of the site alongside the B704 and the railway.

3 PROPOSAL

- 3.1 The application, made under Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006 (hereafter referred to as the Act), seeks to amend conditions attached to a grant of planning permission in principle for Class 4 (business) and Class 5 (general industrial) uses.
- 3.2 A Section 42 application is in itself a planning application, a particular kind of planning application for development without complying with a condition(s) previously imposed on an earlier grant of planning permission. A grant of planning permission under Section 42 results in an entirely new planning permission which will supersede the original permission if implemented. Therefore if planning permission is granted for this application it will replace planning consent 17/00559/S42 (which, in itself, superseded application 07/00556/OUT) if implemented. It will therefore be a planning permission in principle for Class 4 (business) and Class 5 (general industrial) uses.
- 3.3 Although a Section 42 application is a new planning application in law the Act states *“on such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted”*. The principle, layout and form of development are not subject to assessment. Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should still apply. However, as a new planning application it shall be subject to a new/amended legal agreement to secure developer contributions.
- 3.4 Condition 4.viii of planning permission 17/00559/S42 states:

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 site access, roads,

footpaths, cycle ways and transportation movements for the corresponding phase of development has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- viii. details of a 3 metre wide pedestrian/cycling link to be provided to the southern edge of the site to link to the bus based park and ride to be provided within the housing site at Redheugh; and

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.*

3.5 It is proposed that condition 4.viii be modified as follows:

- viii. details of a 3 metre wide pedestrian/cycling link to be provided to the southern edge of the site; and

3.6 Condition 5.i, 5.iii, and 5.iv of planning permission 17/00559/S42 states:

Development shall not begin until an application for approval of matters specified in conditions for works to the A7 has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- i. details of the proposed vehicular and pedestrian access from the A7 (including a 2 metre wide footpath along the site frontage with the A7, proposed visibility splays, traffic calming measures, lighting and signage);
- iii. details of the proposed signalised junction access layout (as shown on drawing 0429_SK-031 rev B) together with further details of the traffic control system onto the A7;
- iv. details of upgrading works to the existing traffic lights at Newtonloan Toll to provide a pedestrian crossing facility on all four arms; and

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.

3.7 It is proposed that condition 5.i be modified as follows:

- i details of the proposed signalised junction access layout (as shown on drawing 0429-SK-031 rev B) together with further details of the traffic control system onto the A7;

3.8 It is proposed that conditions 5.iii and 5.iv be deleted.

3.9 Condition 7 of planning permission 17/00559/S42 states:

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

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

3.10 It is proposed that condition 7 be modified as follows:

Development shall not begin on an individual phase of development until an application for approval of matters specified in conditions setting out details, including a timetable of implementation of high-speed fibre broadband for that corresponding phase of development has been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to occupation of each commercial building within the individual phase of development being proposed. The delivery of high speed fibre broadband shall be implemented as per the approved details.

3.11 Condition 9 of planning permission 17/00559/S42 states:

“Development shall not begin until an application for approval of matters specified in conditions for the provision and use of electric vehicle charging stations throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

3.12 It is proposed that condition 9 be modified as follows:

Development shall not begin on an individual phase of development until an application for approval of matters specified in conditions for the provision and use of electric vehicle charging stations for that corresponding phase 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,

4 BACKGROUND

4.1 Planning permission in principle 07/00556/OUT for Class 4 (business) and Class 5 (general industrial) uses was granted planning permission in November 2012 subject to conditions and a planning obligation securing developer contributions towards the Borders Railway.

4.2 Application 07/00556/OUT was accompanied by an indicative master plan for the site showing how the proposed development included 18 light industrial units varying from 465 to 2323 square metres with a total floorspace of 19,741 square metres on the northern part of the site, and 15 office units varying from 929 to 2090 square metres with a total floorspace of 34,373 square metres on the southern part of the site. It also shows an access from the A7 at a point approximately midway along the eastern boundary of the site, the retention of the existing woodland along the northern edge of the site and planting of a tree belt along the eastern and western boundaries of the site.

4.3 A section 42 application was subsequently submitted and approved (17/00559/S42) which sought to delete condition 8 (provision of zero and/or low carbon equipment). A new planning obligation was agreed as part of this permission.

5 CONSULTATIONS

5.1 The **Council's Ecological Advisor - The Wildlife Information Centre (TWIC)** does not object to the application, but advised that given the age of the earlier permissions the planning application should be subject to a further ecological assessment.

5.2 The **Council's Policy and Road Safety Manager** does not object to the application, but notes that there is an assumption that the proposed internal road network would connect both the northern and southern sites.

6 REPRESENTATIONS

6.1 There have been no representations received.

7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (at the time of drafting the report).
- 7.2 SESplan June 2013 is older than five years. A replacement SESplan was prepared but rejected by Scottish Ministers in May 2019. The Planning etc. (Scotland) Act 2019 removed the duty to prepare Strategic Development Plans, placing strategic planning matters within a National Planning Framework 4 (NPF4) to be prepared by Scottish Ministers. Once approved, NPF4 will form part of the development plan alongside local development plans. Until NPF4 is approved, SESplan remains part of the development plan albeit increasing out of date and of diminishing weight in the assessment of planning applications.
- 7.3 On 8 November 2022 a Revised Draft NPF4, along with an Explanatory Report that outlines the changes from the original draft NPF4, was laid before the Scottish Parliament for a six week period of final scrutiny with an expectation that it will be adopted in late 2022 or January 2023. The Planning Act requires that NPF4 must be approved by the Scottish Parliament before it can be adopted by Scottish Ministers. On adoption the provisions in the Planning Act will make NPF4 part of the statutory development plan (SESplan will become superseded policy at this point). The existing National Planning Framework 3 and Scottish Planning Policy remain in place until NPF4 has been adopted by Scottish Ministers, but don't have the status of being part of the development plan which NPF4 will. As the Revised Draft NPF4 is at an advanced stage and represents the settled view of the Scottish Government in terms of its planning policy it is a material consideration of significant weight in the assessment of the application.
- 7.4 The following policies are relevant to the proposal:
- Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan)
- 7.5 **Policy 2 (Supply and Location of Employment Land)** states that the strategic development plan supports the development of a range of marketable sites of the size and quality to meet the requirements of business and industry within the SESplan area. Local development plans will support the delivery of the quantity of the established strategic employment land supply as identified. Local development plans should also ensure they provide a range and choice of marketable sites to meet anticipated requirements.

Midlothian Local Development Plan 2017 (MLDP)

- 7.6 Policy **STRAT1: Committed Development** seeks the early implementation of all committed development sites and related infrastructure, including sites in the established economic land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP.
- 7.7 Policy **DEV 2: Development within the Built-up Area** states that development will not be permitted within existing and future built-up areas where it is likely to detract materially from the existing character or amenity of the area.
- 7.8 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.9 Policy **DEV6: Layout and Design of New Development** states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, and passive energy gain, positioning of buildings, open and private amenity space provision and parking.
- 7.10 Policy **ECON1: Existing Employment Locations** seeks to safeguard those sites allocated for economic land uses against loss to non-business or industrial uses. Alternative uses for such sites will only be permitted if there is no net detriment to the overall supply of economic land.
- 7.11 **Policy TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 Policy **TRAN5: Electric Vehicle Charging** seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals.
- 7.13 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals.
- 7.14 Policy **IMP1: New Development**. This policy ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are, transport infrastructure; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural interests affected; archaeological provision and 'percent for art' provision.

- 7.15 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.

National Planning Policy

- 7.16 The **SPP (Scottish Planning Policy)** sets out Government guidance in relation to creating a successful sustainable place, supporting economic growth, regeneration and the creating of well-designed places.
- 7.17 In relation to supporting business and employment the planning system should:
- promote business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environments as national assets;
 - allocate sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities; and
 - give due weight to net economic benefit of proposed development.
- 7.18 Plans should align with relevant local economic strategies to meet the needs and opportunities of indigenous firms and inward investors, recognising the potential of key sectors for Scotland with particular opportunities for growth, including:
- energy;
 - life sciences, universities and the creative industries;
 - tourism and the food and drink sector; and
 - financial and business services.
- 7.19 SPP introduces a presumption in favour of development that contributes to sustainable development, but states: *The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.*

- 7.20 The **National Planning Framework 4 Revised Draft** (08 November 2022) is a material consideration – the policies relevant to the application are:
- 7.21 Policy **13 – Sustainable Transport** sets out to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.
- 7.22 Policy **14 - Design, quality and place** sets out to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.
- 7.23 Policy **15 - Local Living and 20 minute neighbourhood** sets out to encourage, promote and facilitate the application of the Place Principle and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options.
- 7.24 Policy **18 - Infrastructure first** sets out to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.
- 7.25 Policy **24- Digital Infrastructure** sets out to encourage, promote and facilitate the roll- out of digital infrastructure across Scotland to unlock the potential of all our places and the economy.

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 Principle of Development

- 8.2 As the proposal is a 'Section 42' application the principle of development is not subject to consideration as set out in paragraph 3.3 of the report. The site was allocated for Class 4 (business) and Class 5 (general industrial) uses in the Midlothian Local Plan 2008 as part of the Redheugh/Prestonholm new community. A subsequent grant of planning permission in principle (07/00556/OUT) for Class 4 and Class 5 uses was granted in November 2012 reaffirming the principle of development across the application site. The MLDP continues the commitment to the economic uses.

Amendment to Condition 4.viii

- 8.3 Condition 4.viii requires the developer to deliver a 3m wide cycle/pedestrian path in the southern part of the site to link to an anticipated (in 2012) bus based park and ride, to be provided within the adjacent residential allocation of Redheugh. Subsequent to the 07/00556/OUT permission the bus based park and ride was replaced with a *potential* rail halt which was safeguarded as part of the neighbouring residential scheme which was approved in principle under ref: 15/00045/PPP.
- 8.4 It is further identified that the adjacent site is under the control of a different land owner and as such the ability of the applicant (the owner of the economic development site) to deliver this path on land not within their control is limited. As such, the proposal to provide the 3m wide route to the limits of the site under the applicant's control is considered appropriate and equally connections from the neighbouring residential development will be secured through the appropriate permissions.

Amendment of Condition 5.i

- 8.5 The masterplan submitted with the original planning application (07/00556/OUT) and the subsequent section 42 application (17/00559/S42) referred to a singular vehicular access off the A7. The proposed development would seek to deliver two vehicular access points from the A7, connected by an internal road loop. However, it should be noted that the indicative site plan submitted with the current application would not be approved and the details of such a proposal would be subject to a separate application and assessment. That said, the submitted plans have been reviewed and the Council's Senior Manager Neighbourhood Services (Roads) raises no objection to the proposed reference to two access points and that the proposed wording, with slight amendments, would comply with MLDP policy DEV6 and TRAN1.

Deletion of Conditions 5.iii and 5.iv

- 8.6 The deletion of condition 5.iii is logical following the acceptance of changes to condition 5.i which reference access details proposed on plan ref: WSP-XX-XX-SK-A-001 rev B and WSP-XX-XX-SK-A-002 rev B. The reference to older plans would not be necessary.
- 8.7 The proposal to have condition 5.vi deleted has been sought due to the requirement of the condition being delivered by other means since the approval of application 17/00559/S42.

Amendment to Condition 7

- 8.8 The proposed amendment seeks to secure high speed fibre broadband on a phased basis as the development will be delivered in a number of phases, rather than securing details for the whole site prior to the first phase commencing on site – this makes sense and can enable each phase to reflect the most up to date broadband position as the site progresses. The proposed re-wording of the condition would require that prior to the commencement of each phase (that would be identified in discharging Condition 2) the necessary timetable and details of the high speed fibre broadband be provided. The proposals would still comply with policy IT1 of the local development plan. In updating the condition the term 'high speed fibre broadband' is replaced by superfast broadband.

Amendment to Condition 9

- 8.9 Similarly to condition 7 above, the proposed changes to condition 9 would require details of electric vehicle charging/parking to be provided prior to the commencement of each individual phase of development rather than for the entire site in one submission. The proposed amendment, with minor adjustments, would be appropriate and still comply with TRAN5 of the local development plan. This phase by phase approach means that a higher level of provision can be secured as part of the later phases of development when it is anticipated the levels of electric car ownership would be at a higher level than they are at present.

Requirement for a new Planning Obligation

- 8.10 The 17/00559/S42 grant of planning permission was subject to a Section 75 legal agreement to secure developer contributions towards the Borders Railway. It is proposed to require an amended legal agreement to ensure the agreed financial position is protected.
- 8.11 Although the application is a 'Section 42 application' it is a planning application which has to be assessed in accordance with Section 37(2) of the Town and Country Planning (Scotland) Act (1997), which states *"in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations"*.
- 8.12 The appropriate procedural requirements are set out in Circular 3/2013: Development Management Procedures which confirms that a Section 42 is a new permission and that if permission is granted it should be subject to the conclusion of any appropriate planning obligation to secure developer contributions.

Other Conditions

- 8.13 Condition 12 of the 17/00559/S42 permission sought to clarify that the original indicative site plan submitted under the 07/00556/OUT application was not approved. Considering that a further indicative site plan has been submitted as part of the current planning application, it is prudent to update that condition confirming that the more recent masterplan is also not approved under any grant of planning permission. The detailed layout of the site will be subject to separate applications.
- 8.14 Following the requirement to impose a duration of planning permission condition (as reported to the Committee at its meeting of October 2022) the comparable condition number of the conditions amended as set out above, may not align with the new conditions proposed below.

9 RECOMMENDATION

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

The proposed development site is identified as being part of the Council's safeguarded/committed economic land supply within the Midlothian Local Development Plan 2017 and as such there is a presumption in favour of the proposed development. This presumption in favour of development is not outweighed by any other material considerations or the proposed amendment of conditions.

Subject to:

- i. the prior signing of a legal agreement to secure contributions towards public transport. The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused; and
- ii. the following conditions:
 1. The development to which this permission relates shall commence not later than the expiration of five years beginning with the date of this permission.

Reason: *To accord with the provisions of Section 59(2) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).*

2. Details of the phasing of the development shall be submitted to the planning authority for approval, and no work shall commence on site until the phasing scheme has been approved in writing. Following approval, the development shall be implemented in accordance with the approved scheme.

Reason: To ensure the development is phased to mitigate the impact of construction on future users of the buildings, existing local residents and those visiting the development site.

3. Development shall not begin on any individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works for the corresponding phase of development has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
- a. existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;
 - b. existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
 - c. proposed new planting in communal areas and open space, including trees, shrubs, hedging, wildflowers and grassed areas;
 - d. location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
 - e. schedule of plants to comprise species, plant sizes and proposed numbers/density;
 - f. 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. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August);
 - g. drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
 - h. proposed car park configuration and surfacing;
 - i. proposed footpaths and cycle paths (designed to be unsuitable for motor bike use);
 - j. proposed cycle parking facilities;
 - k. proposed woodland management plan for any existing, to be retained, and proposed woodland; and,
 - l. details of existing and proposed services, including water, gas, electric, telephone and community heating.

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 (part f). 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 and DEV7 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.

4. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for the siting, design and external appearance of all buildings and other structures, including electricity substations, for the corresponding phase of development 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 in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

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

5. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for site access, roads, footpaths, cycle ways and transportation movements for the corresponding phase of development has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
 - a. existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
 - b. proposed roads (including turning facilities), footpaths and cycle ways;
 - c. proposed visibility splays, traffic calming measures, lighting and signage;
 - d. proposed construction traffic access and haulage routes;
 - e. a green transport plan designed to minimise the use of private transport and to promote walking, cycling and the use of public transport;
 - f. proposed car parking and vehicle charging arrangements;
 - g. an internal road layout which facilitates buses entering and leaving the site in a forward facing direction;
 - h. details of a 3 metre wide pedestrian/cycling link to be provided to the southern edge of the site to allow for future connectivity to adjacent residential development; and,
 - i. 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.*

6. Development shall not begin until an application for approval of matters specified in conditions for works to the A7 has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
 - a. details of the two proposed vehicular and pedestrian accesses from the A7 (as shown on drawing nos. XX-XX-SK-A-001 Rev.B, XX-XX-SK-A-002 Rev B and XX-XX-VIS-A-001 Rev A) or such alternatives as may be agreed in writing with the planning authority, including a 2 metre wide footpath along the site frontage with the A7, traffic calming measures, lighting and signage;
 - b. details of the provision of two new bus stops and shelters provided at suitable points on the site frontage with the A7;
 - c. 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.*

7. Development shall not begin until an application for approval of matters specified in conditions 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:
 - a. the nature, extent and types of contamination and/or previous mineral workings on the site;
 - b. 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;

- c. measures to deal with contamination and/or previous mineral workings encountered during construction work; and,
- d. the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

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

- 8. Development shall not begin on an individual phase of development as identified through condition 2 until an application for approval of matters specified in conditions setting out details, including a timetable of implementation of superfast broadband for that corresponding phase of development has been submitted to and approved in writing by the planning authority. The details shall include delivery of superfast broadband prior to occupation of each commercial building within the individual phase of development being proposed. The delivery of superfast 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.*

- 9. 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 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 Midlothian Local Development Plan 2017.*

- 10. Development shall not begin on an individual phase of development as identified through condition 1 until an application for approval of matters specified in conditions for the provision and use of electric vehicle charging stations for that corresponding phase has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such

alternatives as may be approved in writing with the planning authority.

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

11. Development shall not begin until an application for approval of matters specified in conditions for a scheme setting out the scope and feasibility of a community heating scheme for the development hereby approved and; if practicable, other neighbouring developments/sites, in accordance with policy NRG6 of the Midlothian Local Development Plan, shall be submitted for the prior written approval of the planning authority.
12. No commercial building on the site shall be occupied until a community heating scheme for the site and; if practicable, other neighbouring developments/sites, is approved in writing by the planning authority. The approved scheme shall be implemented in accordance with a phasing scheme also to be agreed in writing in advance by the Planning Authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

Reason for conditions 11 and 12: *To ensure the provision of a community heating system for the site to accord with the requirements of policy NRG6 of Midlothian Local Development Plan 2017 and in order to promote sustainable development.*

13. The details of the development delineated on the indicative plan, dated May 2007, originally submitted with planning application 07/00556/OUT, or 22/00559/S42 (Indicative Schematic Masterplan - ref: (2-) 001) are not approved.

Reason: *The planning permission is in principle only and the details shown on the layout plan are for illustrative purposes only and do not form part of the planning permission in principle.*

14. 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.*

15. The use of the buildings erected on the site shall be for uses within Class 4 (Business) and Class 5 (General Industrial) of the Town and Country Planning (Use Classes) (Scotland) Order 1997

or equivalent in any subsequent amendment or replacement order, unless otherwise approved by the planning authority.

Reason: *To ensure that the uses of the buildings are for the purposes applied for in order to meet economic land requirements.*

16. There shall be no external storage of equipment, packaging, waste or other items on the site and no industrial process or work shall be undertaken out with the buildings unless approved by the planning authority.

Reason: *In the interest of visual amenity.*

17. Development shall not begin until an investigation on badger and bat activity/presence is undertaken by a qualified ecologist and any mitigation measures identified implemented in accordance with details to be submitted and approved in writing by the planning authority. The investigation shall be carried out within the six months prior to development commencing.

Reason: *In the interests of safeguarding badgers and bats and to ensure that an up to date understanding of these species on the site is available prior to development commencing.*

18. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:

- a. Details of a separate construction access;
- b. signage for construction traffic, pedestrians and other users of the site;
- c. controls on the arrival and departure times for construction vehicles, delivery vehicles and for site workers (to avoid school arrival/departure times);
- d. details of piling methods (if employed);
- e. details of any earthworks;
- f. control of emissions strategy;
- g. a dust management plan strategy;
- h. waste management and disposal of material strategy;
- i. temporary construction drainage details / SUDS;
- j. a community liaison representative will be identified to deal with the provision of information on the development to the local community and to deal with any complaints regarding construction on the site;
- k. prevention of mud/debris being deposited on the public highway;

- l. material and hazardous material storage and removal; and
- m. controls on construction, engineering or any other operations or the delivery of plant, machinery and materials (to take place between 0700 to 1900hrs Monday to Friday and 0800 to 1300hrs on Saturdays).

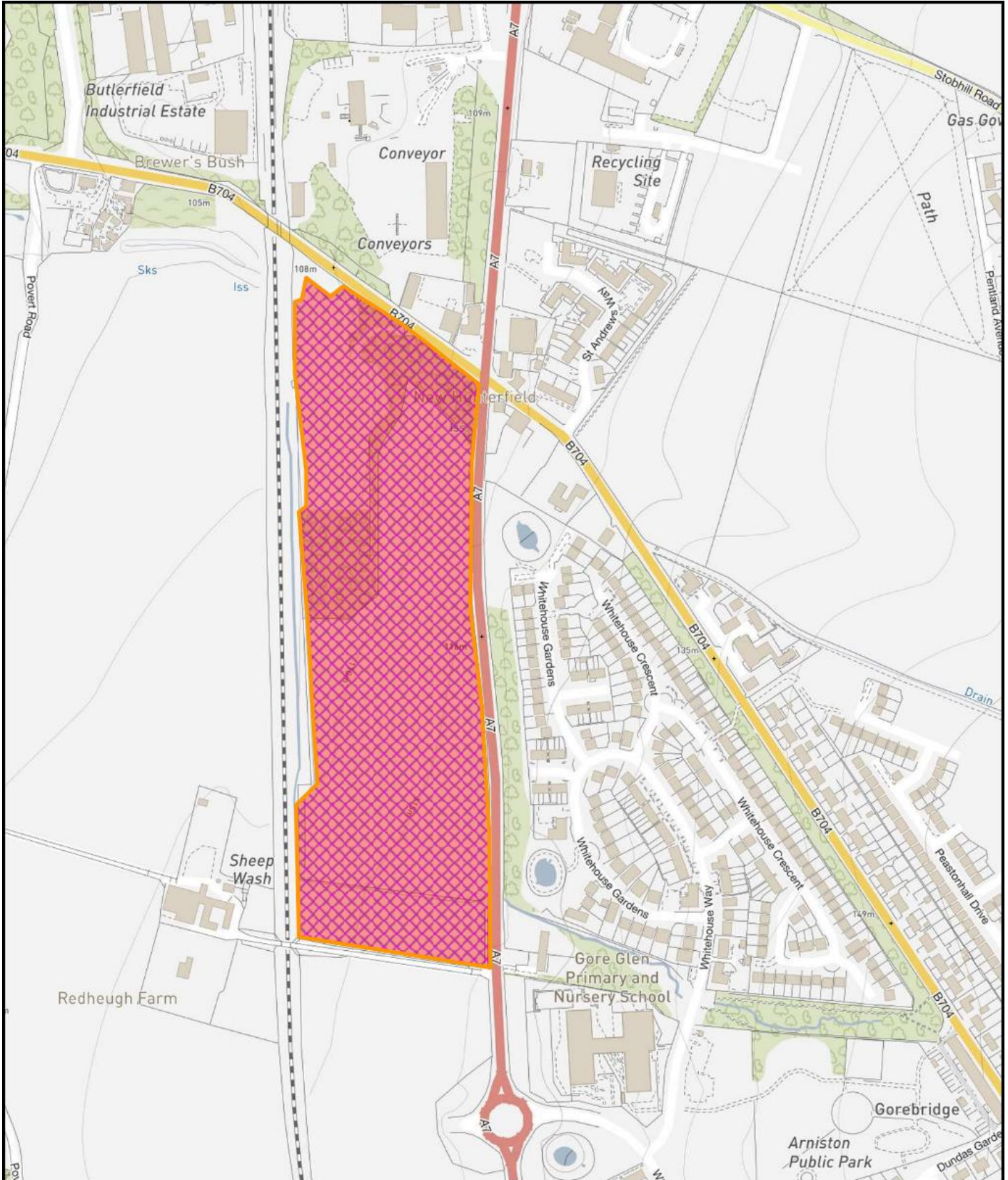
Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 20 December 2022

Application No: 22/00559/S42
Applicant: Omnivale Ltd
Agent: Andrew McCafferty Associates
Validation Date: 02/08/2022
Contact Person: Hugh Shepherd
Email: hugh.shepherd@midlothian.gov.uk
Background Papers: Planning application 07/00556/OUT and 17/00559/S42 and 15/00045/PPP




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

Amend Conditions of 17/00559/S42
Land South West of Newtonloan Toll, Gorebridge

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