

Notice of meeting and agenda



Planning Committee

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

Date: Tuesday, 10 January 2017

Time: 14:00

John Blair
Director, Resources

Contact:

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Further Information:

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

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

1 Welcome, Introductions and Apologies

2 Order of Business

Including notice of new business submitted as urgent for consideration at the end of the meeting.

3 Declarations of Interest

Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

4 Minutes of Previous Meeting

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| 4.1 | Minutes of Meeting held on 30 August 2016 - For Approval | 5 - 10 |
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5 Public Reports

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| 5.1 | Planning Performance Framework Annual Report 2015-16 - Report by Head of Communities and Economy. | 11 - 24 |
| 5.2 | Use of the Planning System to Support and Promote Public Policy: Correspondence from COSLA and Scottish Government - Report by Head of Communities and Economy (To Follow) | |
| 5.3 | Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage - Report by Head of Communities and Economy. | 25 - 30 |
| 5.4 | Appeal and Local Review Body Decisions- Report by Head of Communities and Economy. | 31 - 40 |
| 5.5 | Pre-Application Report regarding a Proposed Residential Development at Land to the East of the Junction of Greenhall Road and Barleyknowe Road, Gorebridge (16/00830/PAC) - Report by Head of Communities and Economy. | 41 - 44 |
| 5.6 | Application for Planning Permission for the Erection of a Research and Imaging Facility and associated outbuilding, generator and sub-station; and Associated Works at Land at Easter Bush South, Easter Bush, Roslin (16/00472/DPP) - Report by Head of Communities and Economy. | 45 - 56 |

- 5.7** Application for Planning Permission for the Erection of Retail Unit, **57 - 74**
Formation of Access and Car Parking at Land South West of Tesco
Superstore, Dalkeith (16/00618/DPP) - Report by Head of Communities
and Economy.

6 Private Reports

No private reports to be discussed at this meeting.

Plans and papers relating to the applications on this agenda can also
be viewed online at www.midlothian.gov.uk.

Minute of Meeting



Planning Committee

Date	Time	Venue
30 August 2016	2.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Bryant (Chair)	Councillor Bennett
Councillor Constable	Councillor Coventry
Councillor de Vink	Councillor Imrie
Councillor Johnstone	Councillor Milligan
Councillor Parry	Councillor Rosie
Councillor Russell	Councillor Wallace
Councillor Young	

1 Apologies

Apologies received from Councillors Baxter, Beattie, Montgomery, Muirhead and Pottinger

2 Order of Business

The order of business was confirmed as outlined in the agenda that had been circulated.

3 Declarations of interest

No declarations of interest were received.

4 Minutes of Previous Meetings

The Minutes of Meeting of 31 May 2016 were submitted and approved as a correct record.

5 Reports

Agenda No	Report Title	Presented by:
5.1	Major Developments: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 August 2016 by the Head of Communities and Economy, updating the Committee on 'major' planning applications, formal pre-application consultations by prospective applicants and the expected programme of applications due for reporting.

Decision

- (a) To note the current position in relation to major planning application proposals which were likely to be considered by the Committee in 2016; and
- (b) To note the updates for each of the applications.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.2	Appeal and Local Review Body Decisions	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 August 2016, by the Head of Communities and Economy, detailing the notices of review determined by the Local Review Body (LRB) at its meeting in June 2016, and advising of the outcome of an appeal determined by Scottish Ministers.

The report advised that the appeal by Avant Homes was against refusal of planning permission in principle 15/00546/PPP (dated 26 June, refused by notice dated 30 November 2015) for residential development and associated infrastructure on land west of the Cottage, Hardengreen, Dalkeith. The Scottish Ministers had dismissed the appeal on the grounds that the proposed development would be inappropriate in the green belt/countryside and would lead towards coalescence between settlements. A copy of the appeal decision accompanied the report.

Summary of Discussion

The Committee, having heard from the Planning Manager, discussed the comments made by the Reporter regarding there being a deficit in the 5 year effective housing land supply. Members were concerned, not only by the potential implications arising from such a view, but that this was the second occasion recently that a Reporter had drawn such a conclusion. The feeling was that whilst the Council could ensure through the Local Plan that there was a sufficient housing land supply, they could not influence the speed at which development took place, which appeared on the face of it to be the real issue of concern.

Decision

- (a) To note the decisions made by the Local Review Body at its meeting on 7 June 2016; and
- (b) To note the outcome of the appeal determined by Scottish Ministers

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.3	Planning Law Clarification	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 August 2016, by the Head of Communities and Economy, providing advice to the Committee with regards to a number of points of Planning Law which directly impacted on the determination of planning applications and the consideration of 'Notices of Review' submitted to the Local Review Body (LRB).

Summary of Discussion

The Committee, having heard from the Planning Manager, discussed the advice, acknowledging the particular circumstance it which it would apply.

Decision

- (a) To note the report; and
- (b) To refer the report onto the Local Review Body for its interest.

Action

Head of Communities and Economy/Democratic Services

Agenda No	Report Title	Presented by:
5.3	Application for Planning Permission for the Erection of 131 Dwellinghouses and Formation of Access and Associated Works (Approval of Matters specified in Conditions 2, 3, 6, 8, 10, 11 & 12 of Planning Permission 09/00056/OUT) at Cockpen Farm, Bonnyrigg (15/00968/MS).	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 1 of the Appendix to the Minutes of 12 May 2009, there was submitted report, dated 23 August 2016, by the Head of Communities and Economy concerning the above application.

Summary of Discussion

The Committee, having heard from the Planning Manager, acknowledged that this site had originally been allocated in the 2003 Local Plan and as such the principle of residential development had already therefore been established. The current application related to the discharging of the conditions associated with outline planning permission 09/00056/OUT for residential development which had been granted in 2012 and the concerns raised in relation to it. These were discussed at length by Members who accepted that whilst the steps taken to address the concerns raised perhaps did not go as far as some might wish they did offer a reasonable solution to many of the issues.

Decision

That planning permission be granted to discharge conditions 2, 3, 6, 8, 10, 11 and 12 of Outline Planning Permission 09/00056/OUT for the following reason:

The principle of the development of the site has been established by the previous grant of planning permission and site's allocation in the Midlothian Local Plan 2008.

The proposed detailed scheme of development is of good design in terms of its layout, form and landscaping and meets the requirements of conditions 2, 3, 6, 8, 10, 11 and 12 of Outline Planning Permission 09/00056/OUT. The detailed scheme complies with the adopted Midlothian Local Plan and the presumption for the development is not outweighed by any other material considerations.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.4	Application to Discharge a Planning Obligation Associated with Planning Permission (656/89) to Convert a Stable Building into Ancillary Residential Accommodation at Firthwell, Old Woodhouselee Road, Firth Field, Roslin (16/00268/LA).	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 August 2016, by the Head of Communities and Economy concerning the above application.

Summary of Discussion

The Planning Manager advised the Committee that essentially since planning permission was originally granted Scottish Government guidance had changed and as a consequence it was no longer considered necessary to have both a planning obligation and a planning condition to regulate the occupation of ancillary residential units. General practice was to now regulate such occupation by way of condition, in the event that regulation was required.

Decision

That the Planning Obligation be discharged for the following reason:

The Planning Obligation does not meet the tests of necessity and reasonableness as required by Circular 03/2012 and its discharge accords with Policies DP1 and RP1 of the Midlothian Local Plan 2008.

Action

Head of Communities and Economy

The meeting terminated at 3.09pm.



PLANNING PERFORMANCE FRAMEWORK ANNUAL REPORT 2015/16

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 This report provides an update on the progress of work undertaken on the Planning Performance Framework (PPF) for Midlothian. Specifically, it provides feedback from Scottish Government on the Council's submitted PPF for 2015/16.

2 BACKGROUND

- 2.1 Members may recall an initial report to Committee in November 2012 explaining that from October 2012 the Scottish Government's Minister for Local Government and Planning had instigated a new Planning Performance Framework system under which each local planning authority in Scotland would be required to submit annually a report to Scottish Government on its performance across a range of quantitative and qualitative measures, including the long-standing indicators of age of local plan(s) and speed of handling planning applications. Accordingly, this Council has prepared and submitted PPF reports for 2011/12, 2012/13, 2013/14, 2014/15 and 2015/16 on which it has received feedback.
- 2.2 As reported to Committee in November 2012 it remains the case that Scottish Government officials have made clear that the primary purpose of the PPF is to provide Ministers, Councils and the public with a much better understanding of how a particular planning authority is performing. Whilst it is inevitable that comparisons across planning authorities will be made, Scottish Government is advising that it is not a 'name and shame' exercise: where particular authorities may be underperforming the Scottish Government officials through normal liaison with officers in the relevant authorities will seek to assist and support improvement.
- 2.3 The Council's PPF for 2015/16 was submitted to Scottish Government in July 2016. Given its size a copy of the document has been placed in the Members' Library. It provides a comprehensive review of progress during the year and highlights steady improvement in a number of areas, examples of good quality development taking place on the ground; as well as continued good progress in the preparation of the Midlothian Local Development Plan.

3 FEEDBACK ON THE 2015/16 SUBMISSION

- 3.1 Formal written feedback was received in November 2016 by way of a letter from the Minister for Local Government and Housing, and enclosing a specific report on a total of fifteen 'performance markers'. A copy of the feedback is attached to this report.
- 3.2 In the feedback report on the fifteen performance markers, four were rated as 'green' giving no cause for concern, four were rated as 'amber' where areas for improvement are identified, and the following five areas were rated as 'red' where some specific attention is required:-
- i) processing agreements – offering agreements to prospective applicants;
 - ii) legal agreements – the time taken to conclude a legal agreement after resolving to grant permission;
 - iii) local development plan – less than 5 years since adoption;
 - iv) development plan scheme – project plan for next local plan; and
 - v) legacy cases – reducing the number of applications more than one year old.
- 3.4 It may be helpful to advise members of comments on each of the matters rated as 'red':

Processing Agreements

- 3.5 The number of major applications subject to a Processing Agreement was introduced retrospectively as a new performance measure for 2015/16. A Processing Agreement is a prescribed method of project management committing the applicant, the Council and ideally consultees to progressing applications in accordance with an agreed timeline.
- 3.6 Thirteen major planning applications were reported to the Planning Committee in 2015/16, nine (69%) of which were considered in accordance with the planned timescales. The planned timescale to report four applications (31%) to Committee were amended during the processing of the application to reflect the applicant's choice to submit amended plans/additional information for consideration. The planned timetables were agreed with applicants, but not subject to a formal processing agreement. This is the applicant's and Council's preferred methodology of project management. However following the introduction of this new PPF measure, Midlothian has reviewed its position with regard Processing Agreements and has offered agreements to applicants in 2016/17. To date applicants do not wish to conclude Processing Agreements, or if they wish to do so they are suggesting unrealistic timescales which would undermine the Council's position to effectively engage with interested parties and consultees. The Council is currently reviewing its Processing Agreement template with the objective of publishing it on its website early in 2017.

- 3.7 The Council's submission and corresponding feedback for 2016/17 should reflect this change in direction.
- 3.8 Across the 34 Scottish Planning Authorities a total of 103 Processing Agreements were concluded in 22 local planning authorities. Only 39% of all major applications (267) determined in Scotland in 2015/16 were subject to a Processing Agreement.

Legal Agreements

- 3.9 The delay in concluding legal agreements was in part due to the Lead Officer: Planning Obligations post (this officer negotiates and secures developer contributions associated with planning applications, primarily housing developments) being vacant for nine months following a management review in the summer of 2014. Following this review the responsibility for negotiating and securing developer contributions was transferred into the Planning team and the vacant post was back filled. In clearing the back log of cases a number of legacy agreements were concluded and as a consequence increasing the average time to conclude a legal agreement for the period 2015/16. Furthermore, the conclusion of a legal agreement is also within the control of the applicants who need to sign the final draft and register the agreement at the Registers of Scotland.
- 3.10 Changes in internal procedures are triggering early discussions with applicants with regard to developer contributions, which in turn are speeding up the legal agreement process. An improved performance should be reflected in the 2016/17 PPF submission. In addition applicants are now being advised that they risk applications being referred to elected members and potentially refused if an agreement is not concluded within six months from the date of resolution to grant planning permission.

Local Development Plan and Development Plan Scheme

- 3.11 Concerning the progress on local development plan preparation, in summary the position is that the timetable for preparation of the Midlothian Local Development Plan is dependent upon that of the Strategic Development Plan (SDP) for South East Scotland. Although Scottish Ministers' approval of the SDP was in June 2013 it was subject to a requirement that the six SESplan Councils jointly prepare supplementary guidance on housing land, and this process was concluded in Summer 2014. This delay impacted on the preparation of the proposed Midlothian Local Development Plan (MLDP). Notwithstanding this delay the 'Proposed Plan' has been submitted to the Scottish Government and is subject to a local plan examination where the 2,607 comments from 835 representations will be considered by the team of three Scottish Government Reporters appointed. The timetable for adoption is now primarily in the control of the Scottish Government.

3.12 Of the 34 planning authorities across Scotland 8 authorities do not have an up to date local development plan.

3.13 In addition, it is important to note that the adopted Midlothian Local Plan (2008) remains as a relevant and robust basis for promoting economic development, meeting housing need, and protecting/enhancing the environment in Midlothian.

Stalled Sites/Legacy Cases

3.14 A legacy case is a planning application which has remained undetermined for over a year. The main reasons why an application will take over a year to determine are as follows:

- the time taken to conclude a legal agreement to secure developer contributions;
- the applicant amending the scheme during the processing of the application;
- awaiting additional information from applicants and/or consultees; and
- on the request from the applicant.

3.15 For 2015/16 there remains 1,028 legacy cases across Scotland (this figure does not include those legacy cases currently with the Scottish Government for determination); 36 of these cases (3.5%) are within Midlothian. Although, there is an ambition to reduce this figure it is inevitable that there will be a small number of legacy cases in a planning authority.

3.16 To reduce the number of legacy cases the following procedural changes are being implemented:

- applicants are being advised that they risk applications being referred to elected members and potentially refused if an agreement is not concluded within six months from the date of resolution to grant planning permission;
- applicants are encouraged to engage in pre application discussions to reduce the need for amendments during the assessment of the application;
- planning officers are proactively chasing applicants and consultees for additional information; and
- planning officers are not normally agreeing to leave applications undetermined at the request of the applicant.

3.17 Two performance matters relating to engagement on the Main Issues Report (MIR) were scored as not applicable because of the stage of Midlothian's Proposed Plan. This was also the position in 2014/15. These measures had previously been scored as green in 2013/14.

4 RECOMMENDATION

4.1 It is recommended that:

- i) the Committee notes the feedback from Scottish Government on the Council's submitted Planning Performance Framework (PPF) for 2015/16; and
- ii) notes the specific actions being undertaken to address specific matters of concern.

Ian Johnson
Head of Communities and Economy

Date: 21 December 2016
Contact Person: Peter Arnsdorf, Planning Manager
Tel No: 0131 271 3310
Background Paper: Council's PPF (2014/15) submission

T: 0300 244 4000
E: scottish.ministers@gov.scot

Mr Kenneth Lawrie
Chief Executive
Midlothian Council

25 November 2016

Dear Mr Lawrie

PLANNING PERFORMANCE FRAMEWORK 2015-16

Thank you for submitting your authority's annual Planning Performance Framework (PPF) report covering the period April 2015 to March 2016. Please find enclosed your feedback report, which is based on the evidence provided within your PPF.

I am very pleased that the quality of PPF reporting has again improved with many authorities setting out a very clear story of how the service is operating and detailing their priority actions for improvement. There have been general improvements across most of the categories however, there still remains high levels of inconsistency in planning authority decision making timescales across the country. This was also reflected through the recent publication of the statistics for the first quarter of 2016-17 which shows that certain authorities, and certain cases, are dragging the statistics down considerably. I asked officials to look into the reasons for delay in some of the lengthiest cases and will report on that to the High Level Group on Performance.

Planning performance improvement has come a long way in recent years and the PPF framework provides an excellent opportunity for authorities to set out the details behind their performance and showcase good practice and innovative ideas. I hope we can continue to work positively with authorities to improve monitoring processes and continue our collective commitment to improving services.

This is an exciting time for planning – the momentum of the independent planning review is continuing and we will be publishing a consultation outlining options for change in the winter, to inform the future Planning Bill. The consultation will cover a variety of options to enhance community involvement in planning; help deliver homes and infrastructure; simplify development planning and management processes; and focus on improving the service and reputation of planning. It is a challenging timetable but a fantastic opportunity to deliver real change.

Although there are some things that we need legislation to change, many of the panel's recommendations don't need legislation, they need a change in working practices, a recognition that planning creates the places where people work, live, learn and play. To achieve the outcomes we all want to see, authorities need to reposition planning to ensure that it sits at the very heart of the authority and has the resources available to it to make sure it provides the best service possible to developers, stakeholders and the authority in which it sits. To help achieve this we will shortly be launching a consultation on raising the planning fee maximum in an effort to move towards cost recovery. Following the planning bill we will consult further on potential reform of the fee regime.

I hope that you and your authority will actively participate as we progress, ensuring that we see real change throughout the planning community.

KEVIN STEWART

CC: Ian Johnson, Head of Planning and Development

PERFORMANCE MARKERS REPORT 2015-16

Name of planning authority: **Midlothian Council**

The High Level Group on Performance agreed a set of performance markers. We have assessed your report against those markers to give an indication of priority areas for improvement action. The high level group will monitor and evaluate how the key markers have been reported and the value which they have added.

The Red, Amber, Green ratings are based on the evidence provided within the PPF reports. Where no information or insufficient evidence has been provided, a 'red' marking has been allocated.

No.	Performance Marker	RAG rating	Comments
1	Decision-making: continuous reduction of average timescales for all development categories [Q1 - Q4]	Amber	<p>Major Applications At 47.8 weeks your timescales have reduced from last year but remain slower than the national average of 38.8 weeks. RAG = Amber</p> <p>Local (Non-Householder) Applications At 10.7 weeks your timescales have improved again and are quicker than the 12.3 week national average. RAG = Green</p> <p>Householder Applications At 6.9 weeks your timescales are slightly longer than last year but remain quicker than the 7.5 week national average. RAG = Amber</p> <p>TOTAL RAG = Amber</p>
2	Processing agreements: <ul style="list-style-type: none"> offer to all prospective applicants for major development planning applications; and availability publicised on website 	Red	<p>You noted that the Council's preferred method of project management is agreeing planned timescales with applicants for major developments rather than offering processing agreements. However you note the Council is reviewing its position on this following the introduction of this key marker. RAG= Red</p> <p>We were unable to find an offer of processing agreements on your website. RAG= Red</p>
3	Early collaboration with applicants and consultees <ul style="list-style-type: none"> availability and promotion of pre-application discussions for all prospective applications; and clear and proportionate requests for supporting information 	Green	<p>You note that applicants and agents are encouraged to engage with the Council at the pre-application stage. Your Pre-Application Advice Service note directs that enquiries for pre-application advice must be made on your Pre-Application Enquiry Form and that you then endeavour to provide a written response within 42 days. However, we note that you also advised you have a long-established and very well used duty officer service and encourage informative pre-application discussions as part of your customer service. RAG= Green</p> <p>You have a set of online validation checklists outlining the information required to submit a valid planning application for different types of development. You highlighted that architects and agents have advised that the requirements are proportionate and that it is "easy to submit an application in Midlothian". RAG=Green</p>

4	Legal agreements: conclude (or reconsider) applications after resolving to grant permission <ul style="list-style-type: none"> reducing number of live applications more than 6 months after resolution to grant (from last reporting period) 	Red	<p>You have had a clear focus on legal agreements and developer contributions, with an audit carried by the Council's Audit team over the reporting year. A number of areas for improvements were identified and a series of measures implemented and the new arrangements have provided a timely and consistent customer approach, with the Planning Obligations Lead Officer and the in house solicitors meeting regularly to progress agreements.</p> <p>Despite that effort, your average timescales for planning/legal agreements for major developments is over 2 years (106 weeks), your average for all types of cases is over a year (55 weeks) and your average for local developments exceeds 6 months.</p>
5	Enforcement charter updated / re-published within last 2 years	Green	You have very recently updated and published your Enforcement Charter.
6	Continuous improvement: <ul style="list-style-type: none"> progress/improvement in relation to PPF National Headline Indicators; and progress ambitious and relevant service improvement commitments identified through PPF report 	Amber	<p>Both your Major and non-householder timescales have reduced however Major remains above the Scottish average. Householder applications have increased however they remain below the Scottish average. Your Development Plan is over 7 yrs, and there has been further slippage in the preparation timescales compared with the last DPS.</p> <p>RAG= Red</p> <p>You have made progress with your identified Service Improvements for 2014-15, achieving 3 out of 5, however those in relation to the LDP and linked to that producing Supplementary Guidance on Developer Contributions have not yet been completed. Your next set of Actions includes a commitment to developing your people and supporting planning officers to gain their RTPI accreditation, you are also intending to take forward groups to deliver on your Service Review and progress changes to improve the planning service.</p> <p>RAG= Amber</p>
7	Local development plan less than 5 years since adoption	Red	Your current plan is the Midlothian Local Plan, adopted in December 2008, making it 7 years 3 months of age at the end of the reporting year.
8	Development plan scheme – next LDP: <ul style="list-style-type: none"> on course for adoption within 5 years of current plan(s) adoption; and project planned and expected to be delivered to planned timescale 	Red	<p>You are due to submit your plan to Ministers for consideration in August 2016, your latest DPS aims for adoption of the LDP in Spring 2017, by which point the Local Plan will be over 8 years old.</p> <p>RAG=Red</p> <p>In last year's feedback we noted "Your programme is on track with the latest Scheme but has slipped in relation to previous 6 schemes." This year you have again noted that you have slipped in relation to the previous 7 schemes, and have lengthened the timescales in the latest DPS (issued at the end of the reporting year) to allow it to mean you are on track according to that. This is developing into a pattern of slippage and extending timescales.</p> <p>RAG= Red</p>
9	Elected members engaged early (pre-MIR) in development plan preparation – <i>if plan has been at pre-MIR stage during reporting year</i>	N/A	

10	<p>Cross sector stakeholders* engaged early (pre-MIR) in development plan preparation – <i>if plan has been at pre-MIR stage during reporting year</i></p> <p><i>*including industry, agencies and Scottish Government</i></p>	N/A	
11	<p>Regular and proportionate policy advice produced on information required to support applications</p>	Green	Supplementary Planning Guidance documents have been prepared on design related issues, complimenting the Council's existing planning policies.
12	<p>Corporate working across services to improve outputs and services for customer benefit (for example: protocols; joined-up services; single contact arrangements; joint pre-application advice)</p>	Green	<p>The Council's planning function is part of the Communities and Economy Service, which also includes building standards, environmental health, economic development, trading standards, community and neighbourhood planning, and performance – this provides opportunities for joined up services. You highlighted that there are close working relationships between the Planning team and colleagues throughout the Council that contribute to the quality of development secured on the ground.</p> <p>You allocate and name a case officer for each application to be the single point of contact from pre-app to post decision discussions, and note that they will coordinate any input from internal consultees such as landscape and transport.</p> <p>In particular, you noted your Planning and Transportation Officers work together allowing new design principles and regulations to be more easily taken into account and helps streamline the two processes of securing Planning Permission and Road Construction Consent, benefitting developers.</p>
13	<p>Sharing good practice, skills and knowledge between authorities</p>	Amber	<p>You share skills with East Lothian for the delivery of archaeological services.</p> <p>You also note that the Planning Team was active in one of the HOPS Development Management Benchmarking Groups to share ideas and learn from other authorities. Similarly to our comments last year whilst you have mentioned that you participate in benchmarking for DM, your report does not go into any detail on this.</p>
14	<p>Stalled sites / legacy cases: conclusion or withdrawal of old planning applications and reducing number of live applications more than one year old</p>	Red	<p>One of the priorities identified in your Service Improvement Plan for 2014-15 related to reducing your number of legacy cases. You had 25 legacy cases and set a target to reduce that by 5% (equivalent to clearing between 1-2 cases) and you note you managed to clear 3 legacy cases over the year (and indicate that 12% had been determined).</p> <p>You commented that following the appointment of a new Planning Obligations Lead Officer (filling a post which had been vacant for 9 months), progress has been made, with the conclusion of section 75 agreements for a number of long-standing legacy cases.</p> <p>However, the overall number of legacy cases you have has increased from 25 to 36.</p>

15	<p>Developer contributions: clear and proportionate expectations</p> <ul style="list-style-type: none"> • set out in development plan (and/or emerging plan); and • in pre-application discussions 	Amber	<p>You note that delivery of key infrastructure is at the heart of your approach to developer contributions. You provided an example of being flexible in terms of developer contributions, at Shawfair.</p> <p>You have started work on new Supplementary Planning Guidance on Developer Contributions, and are intending the timing of the guidance to be linked to the adoption of the new LDP in Spring 2017.</p> <p>RAG= Amber</p> <p>As last year, there is little evidence in your PPF of officers talking about, and setting out requirements for developer contributions during pre-application discussion. Whilst your Pre-Application Advice Service Note indicates that you will provide advice, this seems to be through written exchange rather than discussions.</p> <p>RAG= Amber</p>
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MIDLOTHIAN COUNCIL
Performance against Key Markers

Marker		2012-13	2013-14	2014-15	2015-16
1	Decision making timescales				
2	Processing agreements				
3	Early collaboration				
4	Legal agreements				
5	Enforcement charter				
6	Continuous improvement				
7	Local development plan				
8	Development plan scheme				
9	Elected members engaged early (pre-MIR)			N/A	N/A
10	Stakeholders engaged early (pre-MIR)			N/A	N/A
11	Regular and proportionate advice to support applications				
12	Corporate working across services				
13	Sharing good practice, skills and knowledge				
14	Stalled sites/legacy cases				
15	Developer contributions				

Overall Markings (total numbers for red, amber and green)

2012-13	3	8	4
2013-14	2	8	5
2014-15	3	5	5
2015-16	5	4	4

Decision Making Timescales (weeks)

	2012-13	2013-14	2014-15	2015-16	2015-16 Scottish Average
Major Development	42.8	60.5	77.4	47.8	38.8
Local (Non-Householder) Development	21.5	19.7	11.0	10.7	12.3
Householder Development	7.5	6.9	6.7	6.9	7.5



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

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

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

2 BACKGROUND

- 2.1 At its meeting of 8 June 2010 the Planning Committee instructed that it be provided with updated information on the procedural progress of major applications on a regular basis.
- 2.2 The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants is outlined in Appendices A and B attached to this report.

3 PREMATURE APPLICATIONS

- 3.1 A consequence of the Midlothian Local Development Plan: Proposed Plan being at an advanced stage is premature planning applications being submitted by a number of applicants on a number of sites. These are identified in Appendix A by the statement "Subject to progress on Midlothian Local Development Plan" and relate to sites which are not currently allocated for development in the adopted 2008 Midlothian Local Plan but are proposed in the MLDP. These sites are subject to representations from local communities and interested parties and are subject to examination by Scottish Government Reporters.
- 3.2 In the interests of fairness and transparency it is proposed not normally to report these applications to Committee until the proposed MLDP has progressed through the examination process and the Council has adopted the plan, unless the Committee wish to consider an application in advance of the adoption of the MLDP or there are extenuating circumstances. At its meeting in January 2016 the Committee expressed a preference to determine those applications

where there is a risk that applicants may appeal against non determination, an option open to applicants if an application is not determined within the set timeframe (four months from the date of validation for a major application) or an agreed extended time period.

- 3.3 If an appeal against non determination is submitted it would be determined by Scottish Ministers after consideration of relevant planning policies and other material considerations. Paramount in the consideration would be the potential for an application to undermine the development plan process if considered in advance of the adoption of the MLDP and whether Midlothian has a sufficient housing land supply as defined in Scottish Government Planning Policy.

4 RECOMMENDATION

- 4.1 The Committee is recommended to note the major planning application proposals which are likely to be considered by the Committee in 2017 and the updates for each of the applications.

Ian Johnson
Head of Communities and Economy

Date: 21 December 2016
Contact Person: Peter Arnsdorf, Planning Manager
peter.arnsdorf@midlothian.gov.uk
Tel No: 0131 271 3310

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

APPENDIX A

MAJOR APPLICATIONS CURRENTLY BEING ASSESSED

Ref	Location	Proposal	Expected date of reporting to Committee	Comment
06/00474/OUT	Land adjacent to Rullion Road, Penicuik	Application for Planning Permission in Principle for residential development	Dependant upon receipt of amended plans from the applicant	The applicants have advised that an amended planning application will be submitted in January 2017. Pre-Application Consultation (15/00987/PAC) carried out by the applicants in February/March 2016.
06/00475/FUL	Land between Deanburn and Mauricewood Road, Penicuik	Erection of 300 dwellinghouses	Dependant upon receipt of amended plans from the applicant	The applicants have advised that an amended planning application will be submitted in January 2017. Pre-Application Consultation (15/00987/PAC) carried out by the applicants in February/March 2016.
14/00910/PPP	Land at Cauldcoats, Dalkeith	Application for Planning Permission in Principle for residential development, erection of a primary school and mixed use developments.	Subject to progress on Midlothian Local Development Plan	Pre-Application Consultation (14/00553/PAC) carried out by the applicants in October/November 2014.
15/00364/PPP	Land adjacent Old Pentland Road, Loanhead	Mixed-use development comprising; film and TV studio and backlot complex; mixed commercial uses; hotel; and gas heat and power plant.	Subject to determination by the Scottish Ministers	Pre-Application Consultation (14/00729/PAC) carried out by the applicants in October/November 2014. The applicants have appealed non determination and the application has been with the Scottish Ministers since December 2015. The Committee considered a report regarding the Council's position at its meeting of March 2016.
16/00134/DPP	Land north Of Oak Place, Mayfield	Erection of 169 dwellinghouses an 30 flatted dwellings and associated works	February 2017	Pre-Application Consultation (13/00522/PAC) carried out by the applicants in August/September 2013.
16/00472/DPP	Land at Easter Bush South, Easter Bush, Roslin	Erection of research and imaging facility and associated outbuilding, generator and sub-station; formation of service roads	January 2017	Pre-Application Consultation (16/00179/PAC) carried out by the applicants in March, April and May 2016. This application is reported to this meeting of the Committee.

16/00712/PPP	Land north of Dalhousie Dairy Bonnyrigg	Application for Planning Permission in Principle for residential development	Subject to progress on Midlothian Local Development Plan	<p>Pre-Application Consultation (16/00157/PAC and 16/00161/PAC) carried out by the applicants in March/April 2016.</p> <p>This application may be reported to the Committee's meeting in February 2017 as the applicant is seeking a determination prior to the adoption of the Local Development Plan.</p>
16/00800/S42	Land between Loanhead Road and Edgefield Industrial Estate Loanhead Road	Section 42 application to amend condition 1 of planning permission in principle 09/00354/OUT	February 2017	Condition 1 of planning permission 09/00354/OUT relates to the time period to implement the permission and to submit subsequent Matters Specified in Conditions (MSC) applications to seek approval for the details of the scheme.

APPENDIX B

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

Ref	Location	Proposal	Date of receipt of PAC	Earliest date for receipt of planning application and current position
13/00609/PAC	Housing Site B, land at Newbyres, River Gore Road, Gorebridge	Residential Development	19 August 2013	12/11/13 - no application yet received. The applicants have started discussing possible layouts for this site and an application is anticipated in 2017.
14/00451/PAC	Land at Newton Farm and Wellington Farm, Old Craighall Road, Millerhill, Dalkeith	Residential development and associated developments	10 June 2014	03/09/14 - no application yet received. The applicants have started discussing possible layouts for this site and an application is anticipated in 2017.
14/00833/PAC	Land at Salter's Park, Dalkeith	Mixed-use development comprising residential and employment uses	12 November 2014	05/02/15 - no application yet received. A pre-application report was reported to the January 2015 meeting of the Committee.
15/00774/PAC	Site Hs14, Rosewell North, Rosewell	Residential development	22 September 2015	15/12/15 - no application yet received. A pre-application report was reported to the November 2015 meeting of the Committee.
15/00936/PAC	Land 470M West Of Corby Craig Terrace, Bilston	Residential development	25 November 2015	17/02/16 - no application yet received. A pre-application report was reported to the January 2016 meeting of the Committee.
16/00266/PAC	Land At Rosslynlee Hospital Roslin	Residential development	08 April 2016	04/07/16 - no application yet received. A pre-application report was reported to the May 2016 meeting of the Committee.
16/00267/PAC	Land At Rosslynlee Hospital Roslin	Residential development - change of use, alterations, extensions and partial demolition of the former hospital, including new build development.	08 April 2016	04/07/16 - no application yet received. A pre-application report was reported to the May 2016 meeting of the Committee.
16/00830/PAC	Land east of junction with Greenhall Road Barleyknowe Road Gorebridge	Residential development	24 November 2016	10/02/17 This pre application consultation is reported to this meeting of the Committee.



APPEALS AND LOCAL REVIEW BODY DECISIONS

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 This report informs the Committee of notices of reviews determined by the Local Review Body (LRB) at its meeting in September 2016, October 2016 and November 2016; and two appeal decisions received from Scottish Ministers.

2 BACKGROUND

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

3 PREVIOUS REVIEWS DETERMINED BY THE LRB

- 3.1 At its meeting on 6 September 2016 the LRB made the following decisions:

	Planning Application Reference	Site Address	Proposed Development	LRB Decision
1	16/00213/DPP	47 Arthur View Terrace, Danderhall	Erection of extension to dwellinghouse	Review upheld. Permission granted
2	16/00193/DPP	Lothian Cottage, Dalkeith	Erection of two storey and single storey extension to dwellinghouse	Review upheld. Permission granted

3.2 At its meeting on 26 October 2016 the LRB made the following decisions:

	Planning Application Reference	Site Address	Proposed Development	LRB Decision
1	16/00470/DPP	Grange Dell Lodge, Penicuik	Subdivision of single dwellinghouse to form two dwellinghouses and associated extension and alterations.	Review upheld. Permission granted
2	16/00474/DPP	2 Lamb's Pend, Penicuik	Change of use office to residential (5 flats) and associated external alterations	Review upheld. Permission granted subject to securing developer contributions
3	12/00111/DPP	Land South of Hilltown House, Woolmet, Dalkeith	Erection of 4 dwellinghouses	Reaffirmed decision taken in September 2012 to grant permission subject to securing developer contributions. The LRB gave the applicant 6 months to conclude the legal agreement

3.3 At its meeting on 29 November 2016 the LRB made the following decisions:

	Planning Application Reference	Site Address	Proposed Development	LRB Decision
1	16/00429/DPP	Land at Howgate Restaurant, Howgate	Erection of 3 dwellinghouses	Review upheld. Permission granted subject to securing developer contributions
2	16/00575/DPP	5 Thornyhall, Dalkeith	Alterations to roof of conservatory	Review upheld. Permission granted

	Planning Application Reference	Site Address	Proposed Development	LRB Decision
3	16/00568/DPP	7 Cochrina Place, Rosewell	Erection of extension to dwellinghouse	Review upheld. Permission granted

4 APPEAL DECISIONS

- 4.1 An appeal against a refusal of advert consent (16/00407/ADV) for display of non-illuminated signage (retrospective) at 21 The Square, Penicuik has been upheld and consent granted. The Scottish Government Reporter upheld the appeal after considering the advert preserves the character and appearance of the conservation area, does not detract from the special interest of any nearby listed building and it is not harmful to amenity. A copy of the appeal decision accompanies this report.
- 4.2 An appeal against a refusal of a Certificate of Lawful Use (16/00368/CL) for the use of outbuilding and adjacent outdoor space as boarding kennels at The Smithy, Mossend, Gorebridge has been dismissed and a Certificate of Lawful Use has not been issued. The Scottish Government Reporter dismissed the appeal after considering there was not sufficient evidence to support the applicant's assertion that the stated use had been in operation for at least ten years. A copy of the appeal decision accompanies this report.

5 RECOMMENDATION

- 5.1 The Committee is recommended to note the decisions made by the Local Review Body at its meetings in September 2016, October 2016 and November 2016 and the two appeal decisions by Scottish Ministers.

Ian Johnson
Head of Communities and Economy

Date: 21 December 2016
Contact Person: Peter Arnsdorf, Planning Manager
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Tel No: 0131 271 3310

Background Papers: LRB procedures agreed on the 26 November 2013.



Decision by Jo-Anne Garrick, a Reporter appointed by the Scottish Ministers

- Advertisement appeal reference: ADA-290-2000
- Site address: 21 The Square, Penicuik, EH26 8LH
- Appeal by Mr P Sweeney against the decision by Midlothian Council
- Application for advertisement consent 16/00407/ADV refused by notice dated 15 July 2016
- The advertisement proposed: display of non-illuminated signage (retrospective)
- Date of site visit by Reporter: 10 November 2016

Date of appeal decision: 18 November 2016

Decision

I allow the appeal and grant advertisement consent subject to the standard conditions for the display of advertisements that are specified in the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.

Reasoning

1. Regulation 4(1) of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (the advertisement regulations) limits the exercise of the powers of control of advertisements solely to the interests of amenity and public safety, and these matters are elaborated in regulation 4(2). In this case, the effects on public safety are not referred to in the Council's reasons for refusing the application. Based on the site inspection, the written submissions and as there is no objection in relation to public safety, the determining issue in this appeal is whether the proposed display would be contrary to the interest of amenity.
2. In dealing with this issue, I take account of the location of the appeal site within the Penicuik conservation area and that it is adjacent to listed buildings at numbers 23/ 24 as well as at 17/ 18 The Square.
3. The appeal relates to an advertisement consisting of a non-illuminated sign, that has been erected at the site without consent. The submitted plans indicate that the sign measures approximately 7 metres wide by 0.84 metres tall and is displayed on the front elevation of the building, 2.9 metres above ground level. The sign is positioned between the ground and first floor windows and is constructed from an aluminium panel tray, finished with pvc vinyl graphics.



4. The appeal site is located on the eastern side of The Square, which is on the edge of the town centre. The immediately surrounding area comprises a mixture of retail, commercial and residential uses and building styles. Residential uses become more prominent to the south and east of the appeal site.
5. Regarding amenity, regulation 4(2)(a) of the advertisement regulations, states that the determination of the suitability of a site for the display of advertisements should be in the light of the suitability of the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest.
6. Representations from residents raised concerns that the sign, by virtue of its materials, size and colour, has an adverse impact on the amenity of the area and particularly on the conservation area and adjacent listed buildings.
7. Within its appeal statement, the council refers to Policy DP8 of the Midlothian Local Plan (2008). Policy DP8 provides detained development guidelines regarding advertisements. While a council may adopt and publish policy guidelines, possibly in a local plan, which often serve a useful purpose, failure to conform to such policies or guidelines cannot be cited as the sole or main reason for the refusal of express advertisement consent. Each application falls to be considered on its merits against the above determining issues of amenity and public safety. That said, I note that the policy and guidance mentioned in this case amplifies these issues.
8. I note the concerns expressed by the council and other representations and acknowledge that the building has a scale and appearance of a residential property. I also pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area, in so far as this relates to amenity. However, given the variety of building styles, sizes and conditions in the area, I conclude that the advert preserves the character and appearance of the conservation area, does not detract from the special interest of any nearby listed buildings and it not harmful to amenity.
9. I have considered all the matters raised in the submissions but none lead me to alter my conclusion. Accordingly, I allow the appeal and grant advertisement consent. The council has not suggested any conditions other than the standard conditions set out in Part 1 of Schedule 1 of the 1984 regulations, which are imposed on all advertisement consents. I agree that no additional conditions are necessary in this case.

Jo-Anne Garrick
Reporter



Decision by David Russell, a Reporter appointed by the Scottish Ministers

- Certificate of Lawful Use appeal reference: CLUD-290-2001
- Site address: The Smithy, Mossend, Gorebridge, EH23 4NL
- Appeal by George Forsyth and Patrick Vaughan against the decision by Midlothian Council
- Application for certificate of lawful use (ref. 16/00368/CL), which was dated 16 May 2016 and was refused by notice dated 26 August 2016
- The subject of the application: use of outbuilding and adjacent outdoor space as boarding kennels

Date of appeal decision: 12 December 2016

Decision

I dismiss the appeal and refuse to issue the certificate sought.

Reasoning

1. For the avoidance of doubt, this appeal does not concern whether planning permission should be granted for the use of the site as a boarding kennels. Rather, the appeal relates to an application made by the appellant for a certificate of lawfulness of proposed use to be issued under section 151(1) of the Act. The application for the certificate was submitted on the basis that the use as boarding kennels existed at the appeal site for at least ten years, and is therefore now immune from enforcement action and accordingly should be certified as lawful.

2. The evidence put forward in support of the application consists of a number of licences, an approved building warrant, and photographs. Statements were also made in support of the application by the appellant and by a number of members of the public.

3. The initial licence was for the breeding of dogs at The Smithy. It was issued under the Breeding of Dogs Act 1973, and covered the period from April to December 1999. The licence restricted the breeding to King Charles Cavalier Spaniels and to Boxers. Although this is evidence of dogs being kept at the premises during this period, I consider that the use for breeding is a different use from use as boarding kennels. No further evidence has been submitted that shows that the use of the premises for breeding dogs continued beyond December 1999. Subsequently, in May 2000, the council issued a building warrant for works to alter the kennels accommodation to individual stalls.



4. The next licence was issued after that, on 30 June 2000 under the Animal Boarding Establishments Act 1960. It authorised the previous occupier to keep an animal boarding establishment at the premises known as 'The Smithy' until the end of that year. Subsequently similar, but not identical, licences were issued annually until 2011.

5. In the first two years the conditions of the licence restricted the facility to 10 dogs and 10 cats; in the third year to 10 cats only, with no reference at all to dogs; in the fourth year, the conditions of the licence have not been provided to me; in the next three years the facility was restricted to 15 cats only, with no reference at all to dogs; in the eighth year, the facility was restricted to 50 dogs and 50 cats; and in the final two years, the facility was again restricted to 15 cats only, with no reference at all to dogs, with the address of the licence holder being given as 'The Smithy Cattery'. That licence expired at the end of 2011 and no further licences have been submitted as evidence.

6. It is not disputed that the previous occupier ceased to use the premises as an animal boarding establishment when he retired around 2011. Photographs submitted by the council showing the stalls area being used for storing furniture and household belongings are consistent with this. Further photographs submitted by the appellants showing the recently upgraded facilities are evidence of their current intentions, although I do not consider that they assist in providing evidence of past use.

7. In assessing all of this evidence, I am required to apply the test of 'the balance of probabilities' in considering whether it demonstrates that the premises were used as boarding kennels over a period of at least ten years, prior to the date of the application to the council for the certificate of lawful use. The date of the application was 16 May 2016.

8. I am satisfied, based on the evidence of the submitted licences, that the premises were used as an animal boarding establishment continually for at least a ten year period between July 2000 and December 2011. However I also find that this does not demonstrate that the premises were used as boarding kennels, due to the conditions of the licences not providing for the boarding of dogs except in three of those years.

9. I have also sought to identify any other evidence in the statements made by or on behalf of the appellants, or by those who submitted representations, which would contradict that conclusion. Of over 30 representations, four made a reference to the premises previously being used as boarding kennels. These statements were based on the writer's understanding, or relied on the evidence of the licences, or were simply asserted. While these representations also provided reasons why the operation of the boarding kennel would be beneficial and should be permitted, none provided any substantive evidence which demonstrates that the premises had been used as boarding kennels over the period from 2000 to 2011, contrary to the terms of most of the licences issued. In these circumstances I can attach little weight to the unsupported statements which contradict the evidence of the licences.

10. Many of the others who wrote in support of the application also noted the benefits of the proposed new business, but did not refer to the proposal as being a resumption of a previous boarding kennels use or business. Some had attended an open day held by the appellants at the premises, and while many confirmed that they would be happy to use the premises for boarding their own dogs there, and emphasised the need for such a facility in this area, none stated that they had previously used, or been were aware of, a boarding kennels operated by a earlier owner at the premises.

11. The appellants also submitted comments they had received from members of the public who had attended the open day. These also provided clear evidence of support and of a need for the facility, but again none indicated that they had used, or known of, boarding kennels operating there previously.

12. I have also considered whether there is anything else which would still justify allowing the appeal and issuing the certificate sought. Statements made by the appellants and members of the public regarding the suitability of the premises for use as boarding kennels, and the benefits that would arise from it, would be relevant in considering an application for planning permission to be granted, but that is not what is before me in this appeal. There is also no evidence that planning permission has been granted for the use of the premises as boarding kennels at any time in the past.

13. Accordingly in the absence of substantive evidence being provided which demonstrates that the appeal premises have been used as boarding kennels over a ten year period, I find that the council's reason for refusal is well-founded, and I therefore conclude that the certificate should not be issued.

14. If further evidence of past use of the boarding kennels emerges, this decision would not preclude another application being made to the council for a certificate of the lawfulness of the use to be issued. Neither would this decision preclude the council from granting an application for planning permission for the use of the premises as boarding kennels in future.

David A. Russell

Principal Inquiry Reporter



**PRE - APPLICATION REPORT REGARDING A PROPOSED
RESIDENTIAL DEVELOPMENT AT LAND TO THE EAST OF THE
JUNCTION OF GREENHALL ROAD AND BARLEYKNOWE ROAD,
GORBRIDGE (16/00830/PAC)**

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre application consultation submitted regarding a proposed residential development at land to the east of the junction of Greenhall Road and Barleyknowe Road, Gorebridge (16/00830/PAC).
- 1.2 The pre application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 27 May 2014 and subsequent procedures were reported to the Committee at its meeting of 7 October 2014. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre application consultation for a residential development at land to the east of the junction of Greenhall Road and Barleyknowe Road, Gorebridge was submitted 24 November 2016.
- 2.3 As part of the pre application consultation process the applicants are to hold a public exhibition at Gorebridge Library on Tuesday 24 January 2017 (2.30pm – 7.30pm). On the conclusion of the public event and the 12 week pre application consultation engagement period the applicant could submit a planning application for the proposal. It is anticipated that a detailed planning application would be submitted. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member (in

accordance with the Commissioner's guidance) should not offer views, as the forum for doing so will be at this meeting of the Planning Committee.

- 2.4 A Copy of the pre application notice has been sent by the applicant to Gorebridge Community Council.

3 PLANNING CONSIDERATIONS

- 3.1 The proposed development is situated on land to the east of the junction of Greenhall Road and Barleyknowe Road and to the south of St Andrews R.C Primary School. The site area is approximately 7.1 hectares.
- 3.2 The adopted 2008 Midlothian Local Plan (MLP) identifies the site as being in the countryside and any subsequent planning application will be subject to assessment against policy RP1: Protection of the Countryside. A provisional assessment against this policy does not support the scheme on the basis that the proposed development is not necessary for agriculture or for any other rural business. The site is not allocated for housing.
- 3.3 In June 2015 the applicant made a representation to the Council's proposed Midlothian Local Development Plan (MLDP) on behalf of The Ritchie Family & Barratt David Wilson Homes. The representation objected to the non-inclusion of the site for residential development. The site was considered at the Main Issues Report (MIR) stage of the MLDP but was not identified in the preferred development strategy or as a "reasonable alternative" option in the MIR. Subsequently the site was not selected as part of the development strategy in the proposed plan.

4. □ PROCEDURES

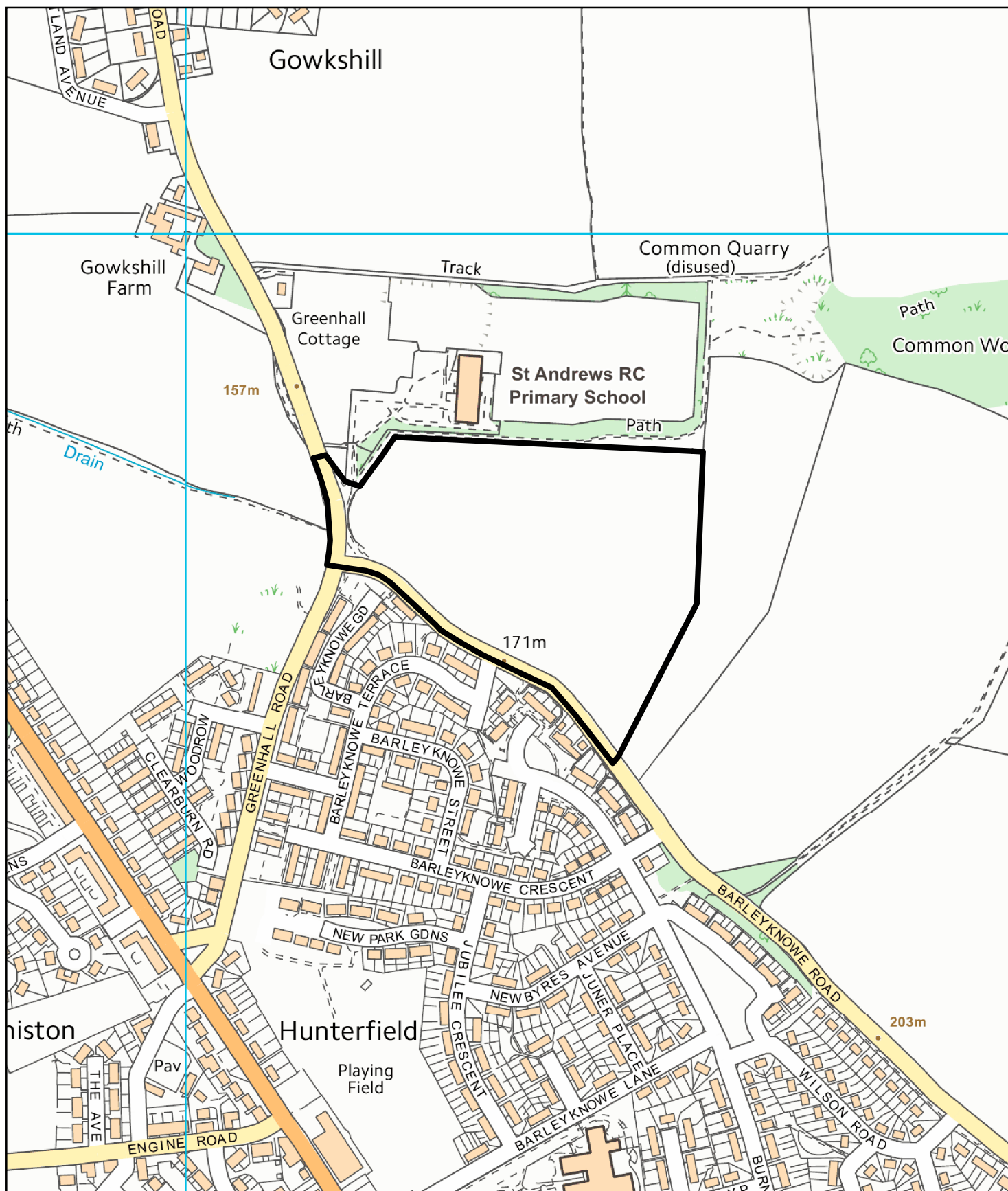
- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.
- 4.3 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

5 RECOMMENDATION

- 5.1 It is recommended that the Committee notes:
- a) the provisional planning position set out in this report; and
 - b) that any comments made by Members will form part of the minute of the Committee meeting; and
 - c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

Ian Johnson
Head of Communities and Economy

Date: 3 January 2017
Contact Person: Peter Arnsdorf, Planning Manager
Tel No: 0131 271 3310



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
8 Lothian Road
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Proposal of application for residential development at Land
East Of Junction With Greenhall Road, Barleyknowe Road,
Gorebridge

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APPLICATION FOR PLANNING PERMISSION 16/00472/DPP, ERECTION OF RESEARCH AND IMAGING FACILITY AND ASSOCIATED OUTBUILDING, GENERATOR AND SUB-STATION; AND ASSOCIATED WORKS AT LAND AT EASTER BUSH SOUTH, EASTER BUSH, ROSLIN

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1** The application is for the erection of a research and imaging facility and associated outbuilding, generator and sub-station; and associated works at land at Easter Bush South, Easter Bush, Roslin. There have been no letters of representation and consultation responses from Scottish Environment Protection Agency (SEPA); Transport Scotland; East Lothian Council Archaeology Service; the Council's Policy and Road Safety Manager; and the Council's Environmental Health Manager. The relevant development plan policies are RP1, RP2, RP3 and RP4 of the Midlothian Local Plan 2008 (MLP). Policies STRAT5, ECON2 and IMP2 of the Proposed Midlothian Local Development Plan 2014 (MLDP) are material considerations. The recommendation is to grant planning permission subject to conditions and securing developer contributions.

2 LOCATION AND SITE DESCRIPTION

- 2.1** The application site is an agricultural field of approximately 1.35 hectares. The field is roughly triangular and slopes downhill from a high point at the southern end of the site.
- 2.2** The site is situated to the south east of the existing buildings at the University of Edinburgh's Easter Bush Campus. The Campus incorporates the Royal (Dick) School of Veterinary Studies; the Roslin Institute; and associated functions.
- 2.3** The site is bounded to the north west by a burn; to the east by the route of the Campus perimeter road and then a tree belt separating the Campus from the neighbouring BioCampus site; and to the south west by an area of open ground beyond which lies the construction site for the Campus Energy Centre.

- 2.4 The site forms part of site Bt2; a 5.8 hectare site proposed in the MLDP for biotechnology/knowledge based industries.

3 PROPOSAL

- 3.1 The application relates to the erection of a research and imaging facility which will support the study of the biology of large animals. The facility will have scanning and imaging facilities similar to those found in a human hospital; such as MRI, ultrasound and CT scanners. The main building will also house the Agricultural Engineering Precision Innovation Centre (Agri-EPI) which will deliver research, development, demonstration and training on precision agriculture and engineering for the livestock, arable, horticulture and aquaculture sectors.
- 3.2 The development will consist of a main building, housing all the research and imaging facilities, with a footprint of 3,675 square metres; an attached animal holding area with a footprint of 1,424 square metres; a detached external store with a footprint of 213 square metres; and an external yard area of 682 square metres. A generator and sub-station building with a footprint of 92 square metres will be erected to the east of the main set of buildings. In addition to the buildings the development will also comprise a service yard and entrance; and a car park.
- 3.3 The main frontage of the facility will be 88.6 metres in length, oriented towards the south west and will front onto land that will be incorporated within the central landscaping spine of the Campus. The main building and attached animal holding area will form a series of five parallel roof ridges. From an eaves height of 4 metres on the main frontage the building height will rise through ridges of 7.8 metres and 10 metres to a peak height of 12.5 metres; the height then falls through ridges of 9.6 metres and 7 metres to an eaves height of 4.4 metres at the rear of the animal holding building. The building walls will be timber clad and the roof will be finished with metal roofing panels; two of the roof planes will include arrays of solar panels. The built form of the building is inspired by modern agricultural buildings; however the detail design elements, roof profile and finish materials create an enhanced agricultural aesthetic that is in keeping with the character of many of the animal housing buildings at Easter Bush.
- 3.4 The research and imaging functions associated with the building will employ 8 to 12 dedicated staff who will move to the site from existing facilities at Roslin and at Dryden Farm. The Agri-EPI facility will provide facilities for 20 staff; however it will have a dedicated day to day staff of 3 to 4 people who will be decanted from existing facilities at Easter Bush. The building will also include space to accommodate a meeting/conference of approximately 100 people; however this will be a very occasional use of the space with existing conference and meeting facilities at Easter Bush likely to take priority for such events.

4 BACKGROUND

- 4.1 Easter Bush Campus is a long-established university campus which is home to several facilities relating to veterinary medicine and bioscience. Easter Bush was originally a farm steading and there are some 19thC farm buildings remaining, although they have been converted to uses related to the campus. The Campus saw significant development in the 1960's and again in the last 20 years; the majority of the buildings on the campus date from these two periods.
- 4.2 The application site was the subject of an Environmental Impact Assessment (EIA) Screening Opinion (16/00269/SCR) as a precursor to the current application; an Environmental Statement was not required. In addition, a Pre-Application Consultation exercise (16/00179/PAC) was carried out by the applicant prior to the submission of the current application.

5 CONSULTATIONS

- 5.1 The **Scottish Environment Protection Agency (SEPA)** has no objection to the proposal. Initially SEPA objected to the proposal on the grounds of flood risk; however following the submission of additional information by the applicant the objection was withdrawn.
- 5.2 **Transport Scotland** has no objection to the proposal.
- 5.3 East Lothian Council **Archaeology** Service has no objection to the proposal.
- 5.4 The Council's **Policy and Road Safety** Manager has no objection to the proposal. The response notes that while a relatively large building the specialist nature of the use will ensure that the use will not generate a significant number of vehicle movements. The response also notes that previous Transport Assessments and the recently prepared Bush Transport Strategy have identified that improvements are necessary at the A702/Bush Loan junction; the Transport Strategy includes a preliminary design for a roundabout. At present no funding mechanism or procurement programme has been brought forward by the landowners and developers in this area for the detailed design and construction of this roundabout. Until a clear strategy and timeframe is identified for the provision of this infrastructure major traffic generation developments in this area, which would result in additional traffic using this junction, could not be supported.
- 5.5 The Council's **Environmental Health** Manager has no objection to the proposal.

6 REPRESENTATIONS

- 6.1 No representations have been received in connection with this application.

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 Proposed Midlothian Local Development Plan 2014 has been submitted to the Scottish Ministers and is subject to an examination which is likely to be concluded in late Spring 2017. As this plan is at an advance stage of preparation and represents the settled view of the Council it is a material consideration of significant weight in the assessment of the application. The following policies are relevant to the proposal:

Midlothian Local Plan 2008 (MLP)

- 7.2 Policy **RP1: Protection of the Countryside** states that development in the countryside will only be permitted if: it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation, tourism, or waste disposal (where this is shown to be essential as a method of site restoration); it is within a designated non-conforming use in the Green Belt; or it accords with policy DP1.

Policy **RP2: Protection of the Green Belt** advises that Development will not be permitted in the Green Belt except for proposals that:

- A. are necessary to agriculture, horticulture or forestry; or
- B. are for opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield; or
- C. are related to other uses appropriate to the rural character of the area; or
- D. are in accord with policy RP3, ECON1, ECON7 or are permitted through policy DP1.

Any development proposal will be required to show that it does not conflict with the overall objectives of the Green Belt.

- 7.3 Policy **RP3: Major Non-Conforming Land Uses in the Green Belt** states that planned development of established activity at non-conforming sites will be permitted. The Bush Estate is one such site and Easter Bush Campus is included within that site.
- 7.4 Midlothian Local Plan Policy **RP4: Prime Agricultural Land** states that development leading to the loss of prime agricultural land will not be permitted unless the site is allocated to meet structure plan

requirements; or there is a locational justification for the development and it accords with all other relevant Local Plan policies and proposals.

Proposed Midlothian Local Development Plan 2014 (MLDP)

- 7.5 Policy **STRAT5: Strategic Employment Land Allocations** states that development for employment uses will be supported on sites identified as strategic employment allocations. The application site forms part of a larger site identified on the Proposals Map for biotechnology/knowledge based industries.
- 7.6 Policy **ECON2: The Bush Bioscience Cluster** states that the cluster, of which the application site forms part, will be safeguarded for the specific purpose of supporting and expanding bioscience research and development. Development will be supported subject to detailed design, scale and landscape impact being acceptable and the necessary local and strategic infrastructure requirements of the Plan being met.
- 7.7 Policy **IMP2: Essential Infrastructure Required to enable New Development to Take Place**, states that new development will not take place until adequate provision (related to the scale and impact of the proposed development) has been made for infrastructure, environmental and community facility requirements identified in the Plan. Within the A701 Corridor the following essential requirements, that are relevant to the current application, are identified:
- A701 Relief Road and A702 Link; and
 - A701 public transport, walking and cycling improvements on existing route (Straiton roundabout to A701/A703 junction).

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 Easter Bush Campus and the research functions associated with it are one of the longstanding uses that form part of the Bush Bioscience Cluster. Policies RP3 of the current MLP and ECON2 of the MLDP are intended to support and facilitate the planned expansion of the existing uses within the cluster. The applicant for the proposal is the University of Edinburgh and the proposal is planned development related to existing operations at Easter Bush; the proposal therefore complies with policies RP3 and ECON2.

Transportation Infrastructure

- 8.3 Midlothian Council and the various organisations with land interests at the Bush are aware that improvements to the transportation infrastructure, in the area surrounding the Bush, will be necessary if the Bush Bioscience Cluster is to develop to its full potential. Previous Transport Assessments prepared in relation to applications within the Bush have identified that the junction of the A702(T) and Bush Loan is operating at close to its maximum capacity. Some assessments have identified that improvements to the junction should be a priority action to facilitate development at the Bush; however, it has proven difficult for all parties to reach agreement on a funding mechanism or procurement programme that would allow a detailed design to be prepared.
- 8.4 With a view to resolving this issue the University of Edinburgh has commissioned consultants to prepare a preliminary design solution for the A702(T)/Bush Loan junction. The design solution arrived at is the relocation of the junction to a location north of the existing junction; the formation of a new three arm roundabout; and the formation of new access roads to link the roundabout to the existing road layout. The preliminary design solution has been included as an appendix within the Bush Transport Strategy; a draft version of which was published in September 2016. The action plan associated with the Strategy identifies that the programme for delivery of the roundabout should commence in 2017.
- 8.5 Notwithstanding this fact neither Transport Scotland nor the Council's Policy and Road Safety Manager have identified the roundabout as being necessary to support the current application. While the proposed building is relatively large this space is necessary to accommodate the specialist equipment required to support the key functions of the building. Despite its large footprint the building will have a typical occupancy of approximately 15 staff; given this staffing level it will not generate a significant number of vehicle trips. It would therefore not be reasonable to seek contributions for the junction improvement in relation to this application. The trip modelling information provided with the Strategy indicates that improvements to the junction will be required after 2017; it is therefore unlikely that further applications at the Bush will be supported without a finalised design and funding programme being agreed for the proposed A702(T)/Bush Loan roundabout.

Use Classification of the Building

- 8.6 The Town and Country (Use Classes) (Scotland) Order 1997 sets out 11 use classes within which a broad range of uses of land and/or buildings can be categorised; while the Use Classes Order seeks to accommodate a breadth of uses it is not possible to accommodate all uses and in some instances uses will not fall within one of the established uses and will instead be considered to be *sui generis*. Uses for Research and Development of products and processes fall within Class 4 (Business); however, Class 4 uses must be capable of being

carried out within a residential area without causing detriment to the amenity of the area by virtue of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

- 8.7 Due to the size of the animal holding area associated with the proposed Facility the use would be likely to disrupt the amenity of a residential area by virtue of noise and smell; the use can therefore not be considered to be a Class 4 use. It is the Planning Authority's view that the proposed facility is a Class 10 (Non-Residential Institution) use. This class includes use for the provision of education; as the facility will be operated by the University of Edinburgh this is considered to be the most appropriate class for the facility. Stating a position with regard the buildings use, in terms of the Use Class Order is important in terms of potential future uses and extensions to the building.

Scale, Design and Finish Materials

- 8.8 The scale and massing of the building have been determined by the need to accommodate large areas of scanning and imaging equipment and to provide heating and ventilation to service the equipment. Articulating the roof space via the series of ridges ensures that the mass of the building is reduced and creates a visually interesting profile when viewed from the main Campus buildings to the north west. The design and finish materials of the building borrow from the vernacular of modern agricultural buildings; this is in keeping with the style and character of many of the large buildings at Easter Bush which commonly feature variations on modern agricultural themes.

Developer Contributions

- 8.9 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The Circular advises that planning obligations should only be sought where they meet all of the following tests:
- Necessary to make the proposed development acceptable in planning terms (paragraph 15)
 - Serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
 - Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19)
 - Fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23)
 - Be reasonable in all other respects
- 8.10 In relation to Midlothian Council, policies relevant to the use of Section 75 agreements are set out in the MLP and MLDP and Midlothian

Council's Developer Contributions Guidelines (Supplementary Planning Guidance).

- 8.11 This proposed development, of which the principal element is the provision of a research and imaging facility, has been assessed in relation to the above guidance and it is considered that a Planning Obligation is required in respect of the following matters:

A701 Relief Road and A702 Link

- 8.12 The site is within the A701 Corridor Strategic Development Area. The MLDP states that contributions will be sought in relation to the proposed A701 Relief Road and A702 Link. A proportionate contribution will be required from this development.

A701 public transport, walking and cycling improvements

- 8.13 The site is within the A701 Corridor Strategic Development Area. The MLDP states that contributions will be sought in relation to measures to prioritise the existing A701 (from Straiton roundabout to the A701/A703 junction) for walking, cycling and public transport improvements. A proportionate contribution will be required from this development.

9 RECOMMENDATION

- 9.1 That planning permission be granted for the following reason:

By virtue of its scale, location, design and use the proposal complies with policies RP1, RP2, RP3 and RP4 of the Midlothian Local Plan and policies STRATS, ECON2 and IMP2 of the Proposed Midlothian Local Development Plan 2014.

Subject to:

the prior signing of a legal agreement to secure the provision of developer contributions towards A701 Relief Road and A702 Link; and A701 public transport, walking and cycling improvements. The legal agreement shall be concluded prior to the issuing of the planning permission. The applicants will be given a 6 month time period to work with Midlothian Council to conclude the agreement with the sanction of the Committee reconsidering the application and potentially refusing permission if the applicant does not conclude the agreement.

and the following conditions:

1. Development shall not begin until details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
 - i notwithstanding that delineated on docketed drawings, existing and finished ground levels and floor levels for all buildings, open spaces, SUDS and roads in relation to a fixed datum;
 - ii proposed new planting in areas of open space, including trees, shrubs, hedging, wildflowers and grassed areas;
 - iii location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
 - iv schedule of plants to comprise species, plant sizes and proposed numbers/density;
 - v programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed within six months of the buildings being completed or occupied, whichever is sooner. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August);
 - vi drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
 - vii proposed car park configuration and surfacing; and
 - viii proposed cycle parking facilities.

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 (v). 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 policy DP2 of the Midlothian Local Plan and national planning guidance and advice.

2. Development shall not begin until details, and if requested samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

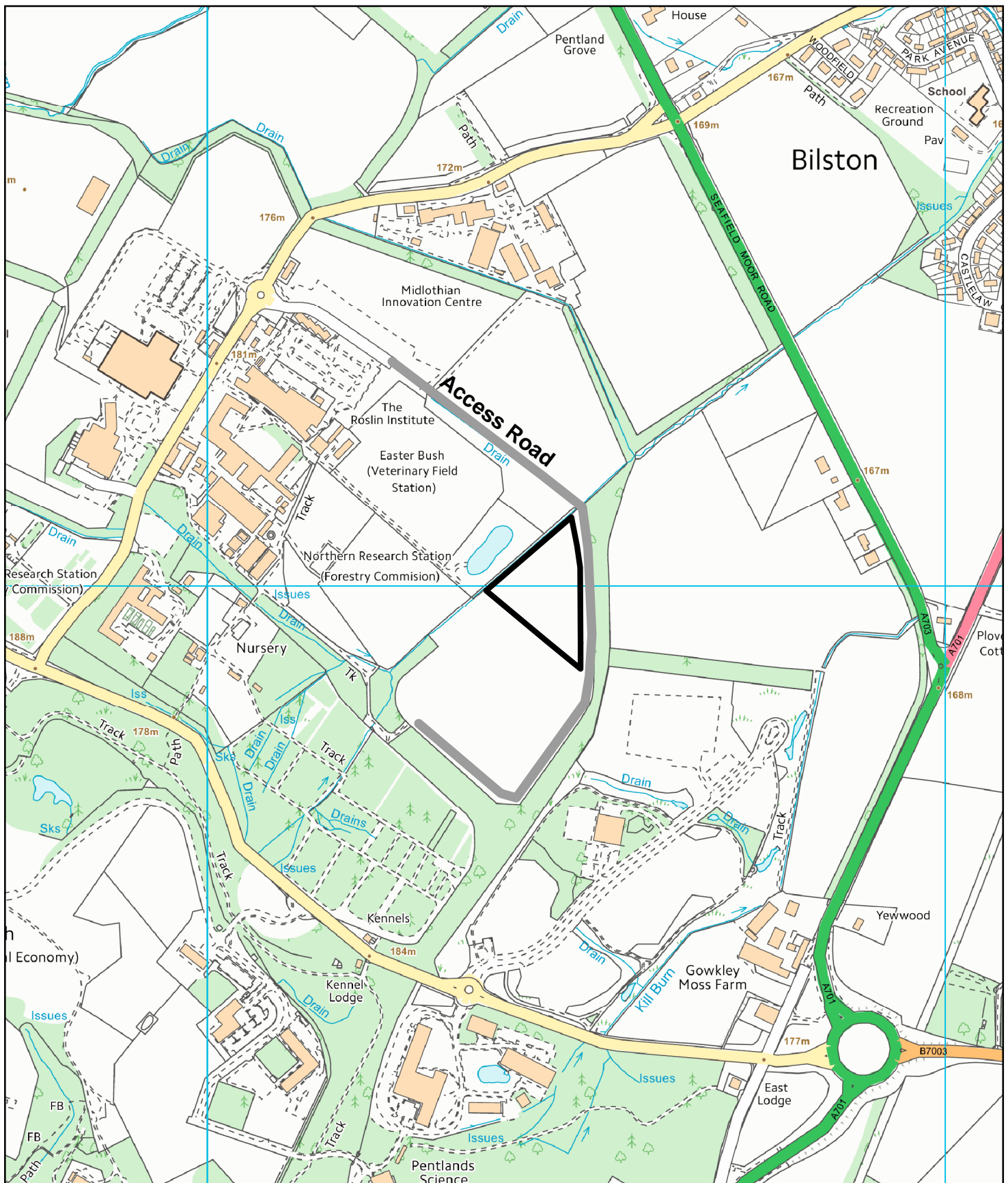
Reason: *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies DP2 of the Midlothian Local Plan and national planning guidance and advice.*

3. The use of the buildings erected on the site shall be for uses within Class 10 (Non-Residential Institution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 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 the structure Plan Strategic economic land requirements.*

Ian Johnson
Head of Communities and Economy

Date:	21 December 2016
Application No:	16/00472/DPP
Applicant:	University of Edinburgh
Agent:	Sheppard Robson
Validation Date:	07 July 2016
Contact Person:	Graeme King, Planning Officer: Local Developments
Tel No:	0131 271 3332
Background Papers:	16/00179/PAC and 16/00269/SCR



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

Erection of research and imaging facility and associated outbuilding, generator and sub-station; formation of service roads and car parking; and associated works at Land At Easter Bush South Easter Bush Roslin

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File No. 16/00472/DPP

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**APPLICATION FOR PLANNING PERMISSION 16/00618/DPP ERECTION
OF RETAIL UNIT, FORMATION OF ACCESS AND CAR PARKING AT
LAND SOUTH WEST OF TESCO SUPERSTORE, DALKEITH**

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1** The application is for the erection of a retail unit and associated works at land to the south west of the Tesco Superstore in Dalkeith. There has been one representation and three consultation responses from the Coal Authority, the Council's Policy and Road Safety Manager and Network Rail. The relevant development plan policies are policy 3 of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) (SESplan) and policies RP5, RP7, RP20, SHOP1, SHOP5, SHOP7, IMP1, IMP2, and DP2 of the adopted Midlothian Local Plan 2008 (MLP). The recommendation is to refuse planning permission as the site does not meet policy requirements for retail units and could have a significant detrimental impact on the vitality and viability of both Dalkeith and Bonnyrigg Town Centres, as well as a significant detrimental impact on the character and appearance of the surrounding area due to the design of the building and the lack of adequate landscaping.

2 LOCATION AND SITE DESCRIPTION

- 2.1** The site is located adjacent to a car park serving a Tesco store and associated petrol filling station at the south-western edge of Dalkeith. The site is currently vacant and is covered with trees and overgrown grass.
- 2.2** The site area is approximately 5,500 square metres (0.55 hectares). The site is relatively flat.
- 2.3** To the south-west of the site is the A7, which is at a lower level, with the community hospital at the eastern edge of Bonnyrigg beyond. A mixed hedge has been planted on the A7 boundary of the site.
- 2.5** To the east of the application site lies a collection of buildings used by a coachworks firm. There is a footway/cycleway to the south of the site, which traverses the A7.

3 PROPOSAL

- 3.1 It is proposed to erect a retail unit with associated access and car parking. The operator has been identified as Home Bargains.
- 3.2 The proposed building will be located in the southern part of the site and will measure 5.4 metres in height to eaves and 7.7 metres to ridge, measuring 50 metres long by 35 metres wide. The walls are to be finished with timber effect cladding and light brown brick, with a dark grey brick basecourse. The roof is to be finished with grey cladding. The fire doors are to be dark grey. The entrance feature is to be mainly glazed but will also have grey cladding and blue shutters.
- 3.3 The building will have 1,141sqm of class 1 non-food retail floorspace and 489sqm of class 1 food retail floorspace, resulting in a class 1 retail store with a gross floorspace of 1,630sqm. 489sqm of the gross floorspace will be allocated for non-trading purposes. There is to be an external plant area to the south (rear) measuring 1.7 metres by 4.7 metres but no further details have been submitted. The plans have been amended to correct a discrepancy in the proposed building dimensions between different drawings.
- 3.4 Vehicular access to the site is to be taken via a new entrance opposite Tesco's recycling area. The application form proposes 74 parking spaces but the site plan shows 80 spaces, four of which are wheelchair accessible. Cycle parking is proposed. The parking is to be provided in the north part of the application site. A service yard area is to be located to the east of the retail unit. There is to be a low level retaining wall around the service yard and the unit to the south and west.
- 3.5 The site plan states that the existing landscaping along the A7 is to be maintained, along with the landscaping to the petrol station and roundabout to the north. The existing fencing to the A7 is also to be retained. The plan states that new landscaping is proposed at the site entrance but no details have been submitted.
- 3.6 The agent has submitted a supporting statement, transport assessment, flooding and drainage statement, Coal Mining Risk Assessment and retail statement. They have also provided additional comments in response to landscaping and policy concerns, which will be addressed in the Planning Issues section of this report.
- 3.7 The submitted plans show signage which will be subject to a separate application.

4 BACKGROUND

- 4.1 Outline planning permission was previously granted at appeal for a licensed restaurant, bar and indoor play area (ref. no. 00/00516/OUT)

at this site. This development was not implemented and the planning permission has since expired.

- 4.2 A subsequent detailed planning application for the erection of a restaurant, bar and children's play area with associated access, car parking and landscaping (ref. no. 01/00169/FUL) was refused and then upheld at appeal, but again was not implemented and the permission has therefore also expired.
- 4.3 A planning application for the erection of a residential care home, including formation of vehicle access and associated car parking, (ref. no. 04/00531/FUL) was approved in 2005 and was also not implemented and has since expired.
- 4.4 In late 2015, a planning application for the erection of retail unit and associated garden centre, formation of access and car parking (ref. no. 15/00921/DPP) was submitted to the Planning Authority for assessment. The application was refused as the Planning Authority considered that the site was not acceptable for retail development as it did not conform to the criteria specified in the sequential town centre first approach as detailed in Scottish Planning Policy or adopted Local Plan policy SHOP5. No sequential test had been submitted, nor was it demonstrated to the satisfaction of the Planning Authority that the site would be appropriate for the proposed use and that there are no other more sustainable sites which could accommodate the development more appropriately. It had also not been adequately demonstrated that the unit would not undermine the vitality and viability of Midlothian town centres or that there is a qualitative or quantitative deficiency which would be addressed through the approval of the application. The application was refused as it was contrary to the SPP, policy 3 of the SDP and SHOP5; of the adopted Local Plan. Also the site could not be considered to be in a neighbourhood shopping centre, therefore the proposal was contrary to adopted Local Plan policy SHOP7. There was also a concern that the size, design, materials and position of the building, and the lack of opportunities for landscaping of the development, would have a significant detrimental impact on the visual amenity of the area, contrary to adopted Local Plan policy RP20. In addition the applicant had not demonstrated that the development would not result in the loss of landscaping which is important in the definition of the settlement boundary where it abuts the A7. Also, the hedge and trees which provide screening of the nearby superstore and large area of car parking would be lost, having a detrimental impact on visual amenity, therefore contrary to adopted Local Plan policy RP5.
- 4.5 Since the refusal of the stated application, there have been discussions between the applicant's agent and the Planning team. The agent has stated that the current application has been amended to reflect these discussions.

- 4.6 The application has been called to Planning Committee by Councillor de Vink, for the following reasons;

“The application site is in a well-established commercial area where the council has recently approved an Aldi at the former Mayshade Garden Centre, a hospital and residential development.

The development site is long term vacant land and needs to be used.

The council supports the upgrading of the A7 corridor and this development can contribute towards jobs and investment along this corridor and, importantly, will also retain spending in Midlothian which currently leaks to Edinburgh.

Given the amount of escaped expenditure we should not be turning away development, particularly where the policy officer does not suggest any impact on town centres.

There has been one objection to this application and none from the Local Community Council.

I suggest it is for the elected members to make this decision given its importance and relationship to the other recent major decisions in this area.”

5 CONSULTATIONS

- 5.1 The **Council’s Policy and Road Safety Manager** has no objection to the proposal and has stated that if permission is granted details of the proposed SUDs scheme would be required. He has also identified a need for contributions to the A7 Environmental Improvements Scheme. This scheme is designed to improve walking, cycling and public transport access on this section of the A7 and its implementation will improve access by non-car users to the proposed retail unit.
- 5.2 **Network Rail** has no objection but makes the following comments: all surface or foul water from the development must be collected and diverted away from Network Rail property; in terms of boundary treatments appropriate planting in proximity to the railway boundary; and ensuring that there is no impact of construction works on the railway.
- 5.3 The **Coal Authority** agrees with the findings of the Coal Mining Risk Assessment in that the coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development taking place in order to establish the exact situation regarding coal mining legacy issues on the site. Should permission be granted, it will be necessary to impose planning conditions to secure further survey work and the necessary

mitigation measures. They do not object to this application subject to conditions being attached to any consent.

6 REPRESENTATIONS

- 6.1 One letter of objection has been received from a representative of the Almondvale West Retail Park, Livingston on the following grounds:
- Permission was previously refused at the site for a smaller unit with no named operator;
 - The proposal would result in new retail floorspace in an out-of-centre location;
 - The application is contrary to the terms of policy SHOP5 of the adopted Midlothian local plan as:
 - Very little assessment has been provided in relation to alternative sites being available within, on the edge of, or sufficiently close to form an effective extension to Dalkeith Town Centre;
 - The site is not within, on the edge of, or sufficiently close to Dalkeith Town Centre to form an effective extension of the Town Centre;
 - The applicant has stated that the proposed operator has a unit in Straiton, therefore it is not considered that the development of a second store will address the qualitative or quantitative deficiency to which the applicant refers; and
 - The objector states that there is available retail space to accommodate the proposal in Livingston Town Centre and if the development is approved it would undermine the vitality and viability of Livingston Town Centre.
 - The proposal is contrary to policy TCR2 of the emerging Midlothian Local Development Plan.

7 PLANNING POLICY

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

South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 **Policy 3: Town centres and retail** requires Local Development Plans to:
- a) identify town centres and commercial centres clearly defining their roles;
 - b) support and promote the network of centres and identify measures necessary to protect these centres; and,
 - c) promote a sequential approach to the selection of locations for retail and commercial leisure proposals.

- 7.3 Policy **RP5: Woodland Trees and Hedges** does not permit development that would lead to the direct or indirect loss of woodland or trees which have a particular value in terms of amenity, nature conservation, recreation, landscape character or shelter;
- 7.4 Policy **RP20: Development within the built-up area** states that development will not be permitted where it is likely to detract materially from the existing character or amenity of the area;
- 7.5 Policy **RP7: Landscape Character** states that development will not be permitted where it may adversely affect the quality of the local landscape. Where it is acceptable, development will respect the local landscape character and contribute towards its maintenance and enhancement. New developments will incorporate proposals to maintain the local diversity and distinctiveness of the landscape character including natural and built heritage features such as woodland, hedges, ponds, stone walls and historical sites; and enhance landscape characteristics where they have been weakened and need improvement and create new landscapes where there are few existing features;
- 7.6 Policy **SHOP1: Town centres** states that proposals that bring about an improvement to the range and quality of retail facilities in town centres will be considered favourably;
- 7.7 Policy **SHOP5: Major retail and commercial leisure development outwith strategic town centres and Straiton** states that major retail development will only be supported outwith town centres if all of the following criteria are met:
- A. There are no suitable alternative sites available within, on the edge of, or sufficiently close to form an effective extension to a strategic town centre, referred to in policy SHOP2, or Straiton Retail Park to accommodate the proposed development or meet the identified needs;
 - B. They are within, on the edge of, or sufficiently close to form an effective extension to other Midlothian town centres;
 - C. The proposals will satisfy a qualitative or quantitative deficiency which cannot be met within or on the edge of a strategic town centre;
 - D. The proposals will not, either individually or cumulatively with other developments, undermine the vitality and viability of existing town centres or major shopping centres of strategic importance, within the expected catchment area of the proposed development;
 - E. The development has, or will be provided with, satisfactory pedestrian, cycling and public transport links;
 - F. Transport impacts are offset by mitigation measures; and
 - G. The development accords with all relevant Local Plan policies and proposals;

- 7.8 Policy **SHOP7: New neighbourhood shopping facilities** states that new neighbourhood shopping facilities will be permitted where they are within the built-up area and they do not undermine the vitality and viability of any of Midlothian's town centres;
- 7.9 Policy **IMP1: New Development** 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, parking in accordance with approved standards, cycling access and facilities, pedestrian access, access for people with mobility issues, traffic and environmental management issues and 'percent for art' provision;
- 7.10 Policy **IMP2: Essential infrastructure required to enable new development to take place** requires developers to contribute funding where there is a requirement in terms of improving infrastructure and protecting valuable environmental assets; and
- 7.11 Policy **DP2: Development Guidelines** which provides guidance for all new developments, including details on landscaping related to development proposals. This states that where sites abut the countryside, tree belts of an average of 30 metres will be required.

Midlothian Local Development Plan (MLDP)

- 7.12 While the MLDP has not yet been adopted it does represent Midlothian Council's preferred strategy for the future development of the Local Authority area. As such it is a material consideration in the assessment of this application. Of particular relevance are the policies which cover Protecting Amenity within the Built-Up Area (DEV2), Layout and Design of New Development (DEV6), Landscaping in new development (DEV7), Transport Network Interventions (TRAN2), Location of New Retail and Commercial Leisure Facilities (TCR2), New Development (IMP1) and Essential Infrastructure Required to Enable New Development to Take Place (IMP2).
- 7.13 The policies mentioned in the preceding paragraph are generally reflective of the policies already set out in the section on Midlothian Local Plan. However, the MLDP sets out requirements for the environmental improvement work for the A7. Policy TCR2 states that major/significant out of town centre retail proposals will not be supported other than in the Gorebridge to Newtongrange corridor.

National Policy

- 7.14 **Scottish Planning Policy** sets out the Scottish Government's policies in respect to a number of planning related matters. The policy sets out the government's position with regards retail developments. In general this seeks to protect town centres from developments which may adversely impact on their vitality and viability.

- 7.15 The SPP states that “where development proposals in edge of town centre, commercial centre or out-of-town locations are contrary to the development plan, it is for applicants to demonstrate that more central options have been thoroughly assessed and that the impact on existing town centres is acceptable”.
- 7.16 The Scottish Government’s policy document on ‘**Creating Places**’ is relevant and sets out the government’s commitment to good quality places. The policy document sets out key qualities which are at the heart of good design.

8 PLANNING ISSUES

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

The Principle of Development

- 8.2 Historic appeal and planning application decisions granted approval for a restaurant and, separately, a residential care home on this site. Furthermore, the site is identified as being within the built-up area of Dalkeith in the adopted MLP. As such the principle of an appropriate form of development on this site could be considered acceptable.

Town centres first

- 8.3 The Scottish Planning Policy aims to promote town centres and support their vibrancy, vitality and viability. It states that where retail proposals are in edge of town centre, commercial centre or out of town centre locations it is necessary for applicants to demonstrate that more central sites have been investigated and that there will be no detrimental impact on town centres as a result of the development. The agent has submitted supporting information stating that this site complies with policy and should be supported.
- 8.4 The site is not within a town centre, nor can it reasonably be described as being on the edge of a town centre. It is a requirement of Government and Council policy to follow a sequential approach to the assessment of this type of proposal. Policy SHOP5 of the MLP requires proposals to be within, on the edge of, or sufficiently close to form an effective extension to a town centre. This proposal does not meet this criterion, and therefore does not comply with policy SHOP5. Once the sequential options are exhausted, there is no allowance in policy to insert a further tier in the sequence, regardless of the availability or otherwise of alternative sites in Dalkeith or the other towns in the development’s catchment area. It is therefore clear that the erection of

a retail unit at the proposed site does meet the sequential test for retail development. Therefore it does not comply with SHOP5 which is the relevant policy.

- 8.5 The applicant has made reference to the specific nature of the operation of the intended occupants, Home Bargains, within the initial supporting statement, claiming that the unit would create approximately 60 jobs. This number has fluctuated between 38 and 100 during discussions regarding the proposal, however the applicant has confirmed that there would be 38 full time equivalent positions created at the premises. The applicant's statements that the proposal complies with planning policy are based on the specific way that the retailer, Home Bargains, operates. The applicant emphasises that the retailer operates in such a way that customers would visit the store on an irregular basis and that it is imperative that the store is located close to a larger anchor store as the footfall for the proposed unit largely derives from customers of larger shops, in this instance Tesco.
- 8.6 The applicant does not define the necessary size of the anchor store but does discount Bonnyrigg town centre as a possible location for the retail unit on the basis of it not having any stores large enough to use as an anchor store. Meanwhile, Dalkeith town centre has been dismissed on account of there being no available land adjacent to Morrisons or Lidl.
- 8.7 The applicant's assertion that Home Bargains stores require to be sited in close proximity to an anchor store, and that there is insufficient land available in Dalkeith adjacent to such a store, appear to be the basis for their sequential assessment arriving at the application site as being the most suitable solution. While the Planning Authority appreciates the business model that Home Bargains works to, the applicant's desire to be located in close proximity to an anchor store does not provide sufficient justification to depart from policy. The applicant's sequential assessment should have taken in to account sites which were supported by Government and Council planning policies, in terms of the sequential hierarchy, in advance of the current application site being considered. In effect, the applicant argues that their business model should take precedence over central and local government policy in relation to the town centre first approach.
- 8.8 In addition, the business model operated by Home Bargains, where there is a requirement for the site to be attached to another anchor store, is reliant on the anchor store not falling in to difficulty. The requirement for the retail unit to be anchored to another store makes the viability of a retail unit at this site vulnerable as it would be fully reliant on the success of another store, completely outwith the control of the applicant or occupier of the proposed store.
- 8.9 In his submission for the Home Bargains application, the applicant draws on the Planning Committee report for the Aldi proposal

repeatedly, specifically in relation to the Council not questioning the sequential assessment submitted by Aldi. However, it is essential to note that the circumstances regarding the two sites and proposals are distinctly different. The Aldi proposal concerns a site which had already been used for an unrestricted retail operation and, as such, benefits from a deemed consent for class 1. The Home Bargains proposal relates to an edge of settlement site with no historic retail activity. Therefore, although the two applications are for similar developments, there is a material consideration which meant that the Aldi application was considered acceptable.

- 8.10 It was clear that the Aldi proposal did not comply with the relevant policies which seek to ensure that such retail development is located in the most appropriate place. However, a Certificate of Lawfulness application was granted in 2015 for the use of the site as an unrestricted Class 1 retail use, not just as a garden centre. This decision was a significant material consideration to the assessment of the Aldi application, with the Planning Committee Report stating: "The decision not to restrict the garden centre to that specific use or to restrict the range of goods sold from the unit, at the time of the original approval has opened up the potential for this site to be used as a Class 1 retail unit".
- 8.11 In the assessment of the Aldi application it was clear that while the Aldi development did not comply with policy, there was a material consideration which otherwise justified approval (the established use of the site).

Neighbourhood shopping centres

- 8.12 Policy SHOP7 of the local plan allows for new neighbourhood shopping facilities provided the vitality and viability of other centres are not compromised or undermined. This site, on the very edge of the settlement and adjacent to a major road does not constitute a neighbourhood shopping centre. In addition, the proposed floorspace of the retail unit is larger than would be expected of one shop in a neighbourhood facility. In general it is not envisaged that there will be a need for neighbourhood retail development in excess of 1000sqm gross floor area. While there are other retail operations nearby, this site does not meet the criteria for a neighbourhood shopping centre.

Impact on town centres

- 8.13 Throughout the submission documents, the applicant has made reference to the Aldi proposal for the erection of new retail unit, 15/00962/DPP, to the northwest of the Hardengreen roundabout at the former Mayshade Garden Centre site. While this application has not yet been approved the Council is minded to grant planning permission subject to securing developer contributions towards the A7 Environmental Improvements Scheme. The following is an extract from

the Planning Committee Report, considered by Planning Committee at its meeting of January 2016 in relation to the Aldi scheme:

The current planning proposal is for a retail store of 1,804sqm gross floorspace. There is sufficient potential trade in the corridor to support the new store, but this would leave little potential surplus convenience trade to support further growth in town centres as sites become available (e.g. former Dalkeith High School site or Bonnyrigg depot) or for neighbourhood centres (e.g. Hopefield) or the new retail facility in the southern part of the (A7) corridor, all of which would be preferable and comply with planning policy better than the proposal. The proposed development is likely to impact on the deliverability of retail facilities at Redheugh and other less well served settlements along the corridor.

- 8.14 The proposed Home Bargains store will draw trade away from town centres contrary to sustainable development principles and the Council's aspirations to support its town centres. The proposal is not considered to be the right development in the right place. Furthermore, the retail unit proposed through this application could undermine the attempt to create a sustainable and successful community at Redheugh or jeopardise aspirations to provide further retail provision in the Gorebridge/Newtongrange area.
- 8.15 Although the applicant has provided an assessment of retail impact issues, rather than a full Retail Impact Assessment (RIA), it has not demonstrated to the Planning Authority that, in providing 1,630sqm of out-of-town retail space, the proposed development will not have a significant adverse impact on the viability and vitality of Dalkeith and Bonnyrigg town centres.

Landscaping

- 8.16 The application site is readily visible from public views, which are from: the A7; Tesco's car park; the petrol filling station; the access road to the north-east and the pedestrian footway and cycleway to the south-east. At present, the whole of the A7 corridor between the Eskbank roundabout to the north and the Hardengreen roundabout to the south has a continuous belt of landscaping to either side. This is also true for the areas where the A7 bounds both Tesco and the Bonnyrigg Community Hospital. It is vital that any development here is well integrated into the landscape and respects the character and appearance of the surrounding area. This could be achieved through the use of appropriate landscaping, along with a high quality design and materials of the proposed building.
- 8.17 The applicant states that the existing landscaping would remain to the A7 and has submitted illustrations to show the proposed building set within this landscaping. There is a well established hedgerow and trees along the south west boundary of the site which bounds onto the

countryside, as well as a number of trees within the site. The layout of the site shows the proposed building, service yard and car parking very close to all boundaries with very little room to accommodate either the existing or any proposed landscaping. Therefore given the amount of works required to build the proposed unit, and the proximity to the site boundaries, the development would lead to the loss of almost all the existing vegetation within the site. This would also leave very little room for compensatory planting within the site. It is therefore highly unlikely that there would be any opportunity for the existing landscaping to be retained as per the submissions. The loss of landscaping within the site would create a large gap within this continuous and well established landscape corridor along the A7 between the built up area and the countryside which would be to the significant detriment of the character and appearance of the surrounding area.

- 8.18 In addition, the building is to be within 1 metre of the hedgerow along the A7, with a retaining wall between the two. The close proximity of the building to the landscaping outwith the site would severely undermine the root-plate of the existing vegetation and lead to the failure of this very important planting. Therefore it is likely that the development of the site would result in the loss of the landscaping outwith the site that the applicant has sort to rely on to help screen the building and integrate it into the landscape.
- 8.19 The loss of landscaping both within the site and along the very important A7 boundary, as well as the lack of consideration for a suitable replacement landscape solution, would have a significant adverse impact on the visual amenity of the area, therefore the proposal is contrary to policies RP5 and RP7.
- 8.20 For a development of the site to be acceptable at this location, in landscape terms, the landscaping should mirror that at the adjacent petrol station. This would require countryside boundary planting along the A7 boundary of no less than 8-10 metres consisting of native hedgerow species, including trees. Additional planting would also be required along the other site boundaries. Such planting would require a significant redesign of the proposed layout. Although this is less than the 30 metre wide tree belt prescribed by policy DP2, this amount of landscaping would be appropriate given the existing landscaping in the surrounding area.
- 8.21 The applicant has stated that there is no environmental designation covering the landscaping at the site and that the trees have not been recognised in any Council policy documents as having any value for nature conservation, amenity or any other environmental reasons. They state that as the landscaping could be removed at any time, policy RP5 is not relevant. They also state that they are willing to enter into a legal agreement to support the environmental improvements along the A7 corridor and there is no reason why this contribution could not be put towards enhancing the landscape treatment adjacent to the

site, which they feel would partially comply with RP7. The applicant also disagrees with the suitability of a landscaping buffer to match the petrol station to the north, stating that the petrol station is located at a prominent position at a roundabout and that the proposed building is well designed and will sit lower than the petrol station. They state that it is not the intention of the applicant to screen the building with landscaping given that the design and location of the building are appropriate. The applicant is willing to provide enhanced landscape features which can be incorporated into and on top of any proposed retaining structures.

- 8.22 The planning officer's assessment does not concur with the applicant's statements. It is clear from the paragraphs above that the existing landscaping forms a buffer between the built up area and the countryside, positively contributing to the landscape character of the area. Therefore this group of trees has particular amenity and landscape character value and so RP5 is considered applicable. Also such a buffer is required as per policy DP2, where these are required to make development adjacent to the countryside acceptable. As noted above, the A7 corridor is well landscaped and it would be the expectation of the Planning Authority that this be continued as part of any appropriate development in this area. The cumulative loss of these trees and landscaping without an opportunity for replacement planting is contrary to RP5. Also, the lack of any adequate landscape buffer between the built up area and countryside is contrary to DP2.
- 8.23 The applicant refers to developer contributions being required towards the A7 Environmental Scheme. Should permission be granted, the applicant would be required to contribute an amount to this scheme. This relates to improvements designed to improve walking, cycling and public transport access on this section of the A7. This contribution would not be towards any additional landscaping that would be required to mitigate for the extensive loss of landscaping which would result from the proposed development.
- 8.24 The comments on the screening of and design of the building are addressed below. Although it is acknowledged that the applicant is willing to provide enhanced landscape features into and on top of any proposed retaining structures, these will not address the concerns raised above or provide adequate landscaping at this site.

Design and Materials

- 8.25 The application is for a single storey hipped roof retail unit with a rectangular footprint. The applicant has amended the design and size of the proposed unit after discussion with the Planning team, including reducing the height of the roof and hipping it and amending the materials and treatment. In these discussions, it was emphasised, the requirement for good quality design should a further application be submitted, referring to the Aldi application which presented a standard

building with the use of a non-standard palette of materials including large areas of glazing and timber cladding to the principal public elevations. This higher quality design was required given the sensitive location within the countryside and Green Belt. It was noted in the Committee Report for the Aldi proposal that architectural interest was created through the treatment of specific elevations. It was also stated that it would not have been appropriate to have proposed a building which took no account of its setting.

- 8.26 The same principles of an improved standard of design should be applied in this application given its potentially prominent location which abuts the countryside. The building is a standard rectangular warehouse style unit with the only area of glazing being a small section around the entrance, resulting in a large, bulky building. The scale and form of the building has a standard and unimaginative appearance which would not relate well to its surroundings. Although the Aldi building is of standard design, it is evident that careful consideration has been given to improve its appearance through the use of higher quality materials and the creation of visual interest through architectural treatment and detailing. This is not the case with the current application, where the proposed materials are brick and timber effect rain screen cladding, along with a metal clad roof. The use of such standard materials, exacerbated by the lack of timber cladding but timber effect cladding, further emphasises the standard, unimaginative design of the building which poorly relates to the surrounding area. The design, is poor and does not take any reference to the attributes of the site or its surroundings. It consequently does not meet national or local policy aspirations with regards to design.
- 8.27 By virtue of its size, design, materials and position, along with the removal of existing landscaping with inadequate replacement landscaping, the proposed building would appear an unduly dominant and intrusive feature when viewed from public area. This would be particularly the case from the A7, which is situated in close proximity to the long axis of the proposed building, is at a lower level than the application site and from where the main bulk of the building would be readily visible. It is not the case that developments should be hidden from view by landscaping but that there should be a combination of high quality design and landscaping to integrate the development into the site. The quality of design of the proposed development is not sufficient to justify such a small landscaped area. The development of this site requires a strong vegetation strip along the A7 to ensure that development will be well integrated to and respect the character and appearance of this sensitive surrounding landscape.

Developer Contributions

- 8.28 As mentioned above, should permission be granted it will be necessary for the developer to provide a financial contribution towards the A7

Environmental Improvements. This developer contribution can be secured through a planning legal agreement.

Summary

- 8.29 This proposed development is contrary to the relevant provisions of the Strategic Development Plan, the Midlothian Local Plan, the Midlothian Local Development Plan and National Planning Policy. The specific matters are:
- the location of the proposed store is out-of-town, contrary with the sequential town centre first approach to retail development and in conflict with national and local planning policy;
 - the applicant has not demonstrated that the proposed store would not undermine the vitality and viability of Dalkeith or Bonnyrigg town centre;
 - the site cannot be classed as a neighbourhood centre;
 - the poor design of the building in terms of its size, form and materials is detrimental to the visual amenity of the area; and
 - the loss of landscaping along the sites boundary would be detrimental to the visual amenity of the area.

9 RECOMMENDATION

- 9.1 That planning permission be refused for the following reasons:
1. The application site is not one of the acceptable types of locations for retail development, as specified in the sequential town centre first approach identified in the Scottish Planning Policy and policy SHOP5 of the adopted Midlothian Local Plan. It has not been demonstrated, to the satisfaction of the Planning Authority, that the site is appropriate for the proposed use, in that the site complies with the sequential town centre first approach, and that there are no other more sustainable or suitable sites which could accommodate the development more appropriately.
 2. It has not been demonstrated, to the satisfaction of the Planning Authority, that the operation of the proposed retail unit would not undermine the vitality and viability of either Dalkeith or Bonnyrigg town centres.
 3. For the above reasons the proposal is contrary to Scottish Planning Policy, policy 3 of the Strategic Development Plan and policy SHOP5 of the adopted Midlothian Local Plan.
 4. The application site is not located within a neighbourhood shopping centre and, therefore, the development is contrary to policy SHOP7 of the adopted Midlothian Local Plan.

5. As a result of its size and design, finishing materials, position on the site and lack of opportunities for landscaping the proposed development will have a significant detrimental impact on the visual amenity of the area, contrary to the terms of Scottish Government policy on Creating Places and policy RP20 of the adopted Midlothian Local Plan.
6. The proposed development would result in the loss of landscaping, which is important in the definition of the settlement boundary where it abuts the A7 road. The hedge and trees also provide effective screening of the nearby superstore and the large area of associated car parking. There is inadequate room within the site to accommodate sufficient landscaping to mitigate for this loss. The impact on the hedge and trees and lack of replacement planting will have a detrimental impact on visual amenity and as such the proposed development is contrary to policies RP5, RP7 and DP2 of the adopted Midlothian Local Plan.

Ian Johnson
Head of Communities and Economy

Date: 21 December 2017

Application No: 16/00618/DPP (Available online)

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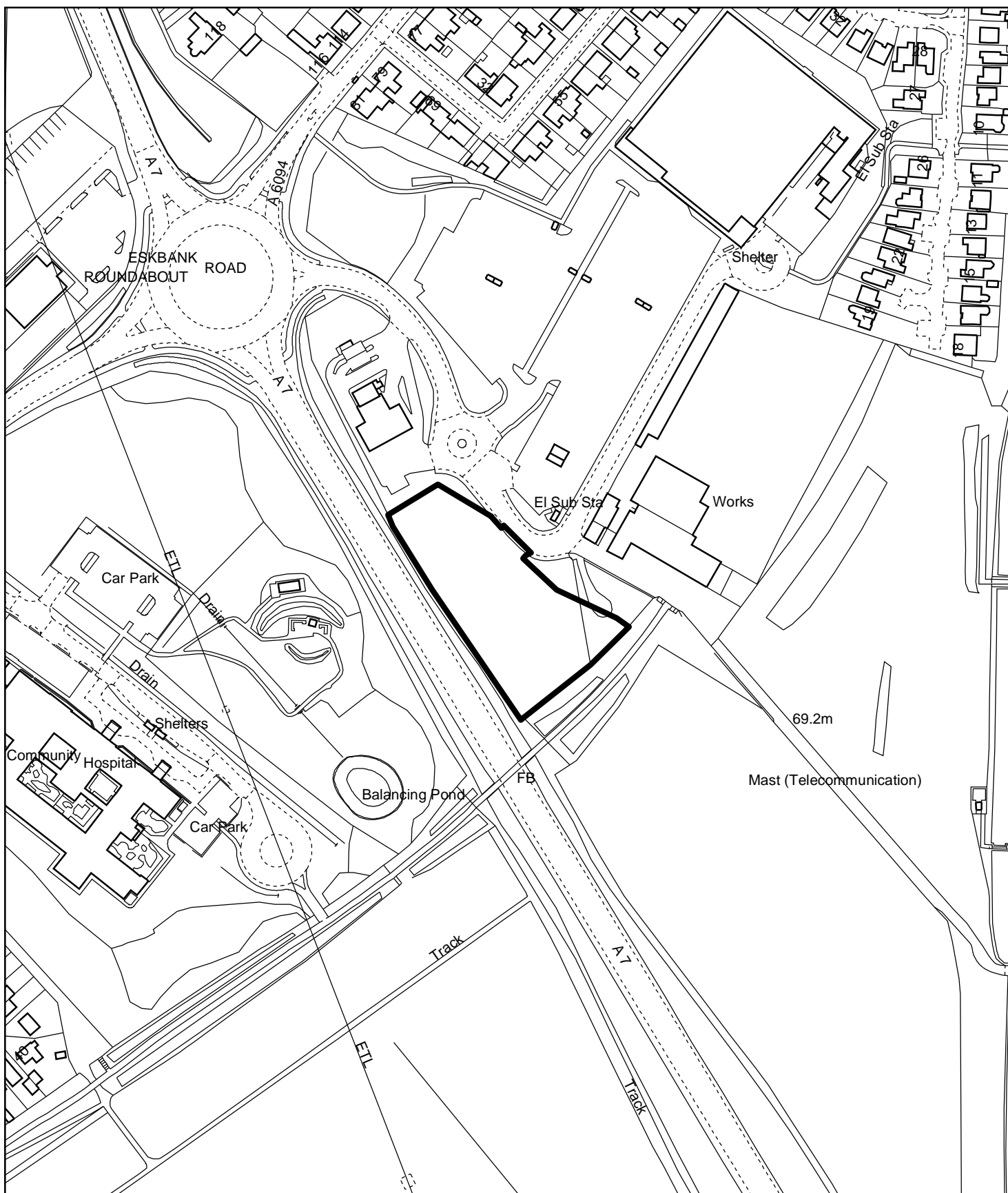
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Background Papers:



**Education, Economy
& Communities**
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Erection of retail unit, formation of access and car parking at
Land South West Of Tesco Superstore, Dalkeith

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