



SECTION 42 APPLICATION 23/00532/S42 TO AMEND CONDITION 11 (PHASING OF CONSTRUCTION WORKS RELATIVE TO SITE ACCESS ENABLING WORKS) IMPOSED ON A GRANT OF PLANNING PERMISSION 19/01018/PPP FOR THE REDEVELOPMENT OF EXISTING SNOWSPORTS CENTRE TO INCLUDE ADDITIONAL LEISURE FACILITIES, HOTEL, FUNCTION SUITE, ANCILLARY RETAIL AND RESTAURANT USES, FORMATION OF ACCESS ROAD AND CAR PARKING AT MIDLOTHIAN SNOWSPORTS CENTRE, BIGGAR ROAD, HILLEND.

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 In January 2021 planning permission in principle was granted for the redevelopment of the existing Midlothian Snowsports Centre to expand the snowsports facilities and associated leisure and commercial uses (19/01018/PPP). Subsequently, matters specified in conditions applications have been received setting out detailed matters secured by conditions of planning permission 19/01018/PPP. Work on the new access arrangements and car park have commenced, but are not completed. The current application seeks to amend Condition 11 to enable onsite work on the enhanced leisure and commercial facilities to commence in advance of the new access arrangements and car park being completed – condition 11 currently requires the new access arrangements to be in place prior to work commencing on the enhanced leisure and commercial uses.**
- 1.2 There have been no representations received and a consultation response from Transport Scotland.**
- 1.3 The relevant development plan policies are policy 18 of the National Planning Framework 4 (NPF4) and policy VIS3 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.4 The recommendation is to grant planning permission subject to conditions.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site comprises the existing Midlothian Snowsports Centre located near the north west boundary of Midlothian within the Pentland Hills Regional Park. The site fronts the A702 Trunk Road where access is taken onto a single-track approach road to the facilities and car park. Buildings, facilities and car parking associated with the centre are located to the western extent of the site on the sloping gradient between the A702 and the artificial ski slopes. There is a significant gradient to the east down towards the A702.
- 2.2 The facilities at the Snowsports Centre include the main reception building, two main slopes (one of which is the longest artificial ski slope in the UK), three nursery slopes, tubing runs, a chairlift allowing access to the Pentland Hills and a café. The site previously included a freestyle jump surface, but this is now closed. The centre is used by schools and members of the public.
- 2.3 There are several paths through the Pentland Hills including core path MID/39/1 running through the site towards the southern boundary connecting the A702 to the Pentland Hills.
- 2.4 There is significant tree cover on the eastern lower slopes of the site and towards the site entrance and along this section of the approach road from the A702. The tree cover has the impact of screening much of the existing development from views from the A702 and from within the recreational areas of the regional park. It also reduces the impact of existing car parking areas. The landform around the site includes significant changes in levels with some of the variation serving to help to screen the site from wider views. The elevated nature of the site means that some of the existing MSC is open to view, the ski slopes being regional features in the landscape.

3 PROPOSAL

- 3.1 The application, made under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc. (Scotland) Act 2006 and the Planning (Scotland) Act 2019) (hereafter referred to as the Act), is to amend the wording of condition 11 of planning permission 19/01018/PPP. The condition currently reads as follows:

No part of the development shall begin demolition or construction unless or until: i. The new access has been provided in accordance with the approved matters specified in conditions, or separate planning permission, as detailed in Condition 10 and is available for use by Calderstones and Midlothian Snowsports Centre; ii. All new footways have been provided in accordance with the matters approved in terms of Condition 10iii; iii. The bus turning area has been appropriately relocated revised as appropriate in terms of Condition 10iv; and, iv A

Construction Management Plan has been submitted to and approved by the Planning Authority in consultation with Transport Scotland which allows works to the private access road and car parking to commence at the same time as the new access approved in terms of Condition 10i is under construction.

- 3.2 It is proposed that the condition be amended to read as follows:

No part of the development shall become operational unless or until: i. The new access has been provided in accordance with the approved matters specified in conditions, or separate planning permission, as detailed in Condition 10 and is available for use by Calderstones and Midlothian Snowsports Centre; ii. All new footways have been provided in accordance with the matters approved in terms of Condition 10iii; iii. The bus turning area has been appropriately relocated revised as appropriate in terms of Condition 10iv; and, iv. A Construction Management Plan has been submitted to and approved by the Planning Authority in consultation with Transport Scotland which allows works to the private access road and car parking to commence at the same time as the new access approved in terms of Condition 10i is under construction.

- 3.3 The only change is in the first sentence: instead of ...*shall begin demolition or construction*, the applicant proposes to replace this with ...*shall become operational*. The effect of this change would be to allow construction works to proceed to other parts of the development other than the access road and car park whilst the works to the main site entrance at the A702 are underway. The junction improvement works must be completed before the upgraded snowsports centre becomes operational.
- 3.4 The implications of this change are purely transport related. The original condition is designed to control activities (and therefore an increase in traffic movements in and out of the Midlothian Snowsports Centre site) until after the works to the junction with the A702 have been complete. These works are described in planning permission 22/00169/DPP and provide signal-controlled movements through the junction and a dedicated right-hand turning lane into the site from the north (the city). By accepting the amendment, this would allow the applicant to undertake a wider extent of construction activities before the upgrades to the A702 have been completed, but the new facilities will not come into use until the new access is completed and operational.
- 3.5 A Section 42 application, is in itself a planning application - a particular kind of planning application for development without complying with a condition/s previously imposed on an earlier grant of planning permission. A grant of planning permission under Section 42 results in an entirely new planning permission.

- 3.6 Although a Section 42 application is a new planning application in law the Act states *“on such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted”*. The principle, layout and form of development are not subject to assessment. Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should still apply.

4 BACKGROUND

- 4.1 Planning permission in principle 19/01018/PPP for redevelopment of existing snowsports centre to include additional leisure facilities, tourist accommodation, hotel, function suite, ancillary retail and restaurant, formation of access road and car parking (this application is accompanied by an environmental impact assessment report submitted under the terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 was granted planning permission in February 2021.
- 4.2 Matters specified in conditions application 21/00536/MS to discharge condition 3 (Phasing Plan) relating to the redevelopment of existing snowsports centre to include additional leisure facilities, tourist accommodation, hotel, function suite, ancillary retail and restaurant, formation of access road and car parking of 19/01018/PPP was granted in March 2022.
- 4.3 Matters specified in conditions 21/00912/MS to discharge conditions 4 (landscaping), 6 (means of internal access etc), 9 (scheme of lighting), 10 (access to the A702), 21 (archaeology), 28 (CEMP), 30 (electric vehicle charging points), 32 (scheme of biodiversity enhancement) and 33 (broadband) relating to the redevelopment of existing snowsports centre to include additional leisure facilities, tourist accommodation, hotel, function suite, ancillary retail and restaurant, formation of access road and car parking of 19/01018/PPP was granted in August 2022.
- 4.4 Planning application 22/00169/DPP for alterations to existing junction, bus turning area and car park; resurfacing and associated works was granted planning permission in August 2022.
- 4.5 Planning application 22/00792/DPP for the erection of 22 floodlighting columns (retrospective) was granted planning permission in August 2023.
- 4.6 Matters specified in conditions 23/00124/MS to discharge conditions 4 (landscaping), 5 (buildings), 19, 20 and 32 (biodiversity) relating to the redevelopment of existing snowsports centre to include additional leisure facilities, tourist accommodation, hotel, function suite, ancillary retail and restaurant, formation of access road and car parking of

19/01018/PPP was granted in October 2023. This application included amendments to some of the details submitted under 21/00912/MS.

- 4.7 The application site exceeds two hectares and therefore the proposed development constitutes a 'Major Development' as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and thereby is required to be determined by the planning committee.

5 CONSULTATIONS

- 5.1 **Transport Scotland** does not object to the application – Transport Scotland have reviewed the proposal and have been in active dialogue with the applicant as the works to the A702 junction have progressed. The works uncovered a previously unknown water main which had implications for the delivery of the access (planning application 22/00169/DPP). Whilst a solution is devised, the applicant wishes to allow construction of other elements of the development so as not to delay the project unnecessarily. Transport Scotland accept that the delay to works to the A702 should not delay the whole project, on the proviso that temporary works/arrangements are put in place to allow construction traffic to use the junction during the implementation of the approved access and that the permanent access solution is completed prior to the enhanced facilities come into use.

6 REPRESENTATIONS

- 6.1 No representations have been received.

7 PLANNING POLICY

- 7.1 The development plan is comprised of National Planning Framework 4 (2023) and the Midlothian Local Development Plan 2017.

- 7.2 The following policies are relevant to the proposal:

National Planning Framework 4 (NPF4)

- 7.3 Policy **18 Infrastructure first**; sets out to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.

Midlothian Local Development Plan 2017 (MLDP)

- 7.4 Policy **VIS3: Midlothian Snowsports Centre** supports development proposals for the upgrading and enhancement of the Midlothian Snowsports Centre and ancillary facilities in order to secure its future as a centre for artificial skiing and snowboarding. Proposals with significant adverse environmental impacts will not be supported unless satisfactory mitigation measures are included in the proposal.

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 response received is a material considerations.
- 8.2 The applicant's justification for the amendment to condition 11 is based on the discovery of a water main near the site of the works to the A702 than anticipated – the siting and depth of the water main means that an alternative road design needs to be considered. In order to maintain momentum of the wider project, construction works need to be able to proceed before the completion of the A702 junction works. A revised Construction Traffic Management Plan is presented to show how the junction would operate safely with construction traffic access/egress.
- 8.3 Transport Scotland, who have responsibility for the A702, accept the proposed amendment to condition 11 because there appears to be a design solution to the water main complication which will enable the construction of the new access onto the A702, implementing planning application 22/00169/DPP, and the protection of the water main. Transport Scotland consider that temporary junction works are needed to maintain the safe operation of the junction. They recommend approval of the application but with an additional condition securing agreement and implementation of these temporary works. The layout and specification of these works has been agreed with the applicant.
- 8.4 Given the circumstances the project finds itself in, it is appropriate for the planning authority to consider variations and changes to the conditions of a planning permission to deal with unforeseen circumstances. In this case, it is important to ensure that the delivery of development promoted by policy VIS3 of the MLDP comes forward in the wider public interest. At the same time, the development must manage its impact on the infrastructure which supports it, namely the vehicular connection to the trunk road network. This is required by NPF4 Policy 18: Infrastructure First.
- 8.5 Transport Scotland remain concerned that the use of construction traffic on the current junction arrangement could have a significant detrimental impact on road safety. Therefore, temporary works are required to accommodate the additional flows to and from the Midlothian Snowsports Centre. These should be secured by condition – the proposed new condition is:

Notwithstanding the phasing plan secured by Condition 3 and approved under application 21/00536/MS, no part of the development shall begin demolition or construction unless or until the proposed temporary traffic management works (including associated lighting, drainage, road sign, and road markings works) have been constructed to a layout and type (and method) of construction generally in accordance with Drawing TM-O 70868

TM004, Drawing TM-O 70868 TM004A, and complying with Transport Scotland's Requirements of Temporary Traffic Management, all to the satisfaction of the Planning Authority, in consultation with Transport Scotland as the trunk road authority.

Reason: *To minimise interference with the safety and free flow of traffic on the trunk road.*

- 8.6 Subject to adherence to this condition, the proposed amendment to condition 11 can be accepted.
- 8.7 On this basis, the proposed amendment is accepted as helping to deliver of the development strategy of the MLDP whilst mitigating the impacts of development on local transport infrastructure as required by NPF4 Policy 18.
- 8.8 The approval of the Section 42 application to amend conditions of the original consent results in the release of a new planning permission in principle. This can cause procedural issues when it comes to discharging those conditions which have been discharged already for parts of the scheme, whilst others remain. - If a new planning permission in principle is granted, then the applicant would technically be operating in breach of planning control – however, rather than asking the applicant to resubmit all previous information to discharge the conditions that have been discharged, it is proposed that the conditions are applied to this consent. Then the planning authority shall write to the applicant discharging those same conditions of 23/00532/S42 that were discharged under the MSC applications submitted under 19/01018/PPP (namely 21/00536/MSC, 21/00912/MSC and 23/00124/MSC).
- 8.9 The inclusion of an additional condition, referenced above in paragraph 8.5, will necessitate the re-numbering of subsequent conditions. The additional condition would be condition 12.

9 RECOMMENDATION

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

The amendment to the conditions of the planning permission in principle will allow for the delivery of the redeveloped Midlothian Snowsports Centre, as supported by policy VIS3 of the Midlothian Local Development Plan 2017. At the same time, the permission secures mitigation of the impacts of development on local infrastructure, in accord with National Planning Framework 4 (NPF4) Policy 18(b). Therefore, the proposed amendment is in accordance with the development plan and there are no material considerations which outweigh this support for the proposed development.

Subject to the following conditions:

1. Notwithstanding that delineated on application drawings/stated in documents submitted with the application the glamping pods have now been removed from this application and no consent is hereby granted for the glamping pods proposed within the site.

Reason: *The glamping pods and the associated light from the pods and related facilities (such as pathways) are not yet designed in sufficient detail to enable appropriate assessment of the impact of the lighting.*

2. In addition to the conditions attached to this consent, all of the matters identified in Table 14.2 within Chapter 14 Schedule of Mitigation of the EIAR shall be complied with and addressed in the detailed design of the development. All application(s) for Matters Specified in Conditions required will refer to this table and show compliance with the contents, it shall show compliance with the parameters set out in the EIAR, as well as in relation to the conditions attached to the consent.

Reason: *To ensure that all of the mitigation measures identified in the EIAR are addressed in the detailed design of the proposed development and that the development is well designed and that it fits within the parameters identified in the EIAR.*

3. Development shall not begin until an application for approval of matters specified in conditions regarding the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of the hotel, leisure facilities, retail provision, the provision of landscaping, SUDS provision and transportation infrastructure (including roads, footpaths, cycle trails and car and coach and bus parking). Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

Reason: *To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development and in the interest of safeguarding the character and amenity of the area.*

4. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority. Details of the scheme shall include where relevant to the particular phase of development:

- i. existing and finished ground levels and floor levels for all buildings and roads in relation to a fixed datum. It should be noted that SEPA recommend building floor levels are set above surrounding ground levels in order that pooled water does not cause building problems;
- ii. existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
- iii. proposed new planting in communal areas and open space, including trees, shrubs, hedging and grassed areas;
- iv. location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v. schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi. programme for completion and subsequent maintenance of all soft and hard landscaping;
- vii. drainage details and sustainable urban drainage systems to manage water runoff;
- viii. proposed car park configuration and surfacing;
- ix. proposed footpaths and enhanced safety on the access road for cyclists as well as off road cycle trails; and,
- x. 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 (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

Reason: *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with the NPF4 and the Midlothian Local Development Plan 2017.*

5. With the exception of the works to the access road and main trunk road junction, Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for the siting, design and external appearance of all buildings and other structures has been submitted to and approved in writing by the planning authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. No building shall have an under-building that exceeds 0.5 metres in height above ground level. 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 NPF4 and the Midlothian Local Development Plan 2017.

6. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
 - i. existing and finished ground levels for all roads, footways and cycle ways in relation to a fixed datum;
 - ii. the proposed vehicular, cycle and pedestrian accesses into the site;
 - iii. the proposed roads (including turning facilities), footpaths and cycle ways including suitable walking and cycling routes linking the development with the local public transportation network;
 - iv. proposed visibility splays, traffic calming measures, lighting and signage;
 - v. proposed construction traffic access and haulage routes;
 - vi. proposed car parking arrangements, including the provision of electric vehicle parking areas and details of the means of car charging; and
 - vii. a programme for completion for the construction of access, roads, footpaths and cycle paths.

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

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

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

- environment from contamination and/or previous mineral workings originating within the site;
- iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and
 - iv the condition of the site on completion of the specified decontamination measures.
8. On completion of the decontamination/ remediation works referred to in Condition 7 above and prior to any part of the development being occupied, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No part of the development shall be occupied unless or until the planning authority have approved the required validation.

Reason for condition 7 and 8: To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.

9. Development shall not begin until an application for approval of matters specified in conditions for proposed lighting within the site including of the car parking areas, service areas, roads and footpaths have been submitted to and approved in writing by the planning authority in consultation with Transport Scotland, as trunk roads authority. The scheme shall be designed to minimise the spread of light in the night sky. Development shall therefore be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

Reason: To reduce light pollution to the night sky and to ensure that there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished. It is noted that an initial lighting assessment has been completed which has indicated that the proposed development will not cause significant adverse impacts. However it is proposed by the applicant that a detailed assessment will be completed at the next stage(s) of the process and this will be submitted to and approved by the planning authority.

10. Development shall not commence on the site until an application for matters specified in condition has been submitted to and approved by the planning authority in consultation with Transport Scotland (as trunk roads authority), for:
- i. The access onto the A702, as generally illustrated on SWECO drawing no 65200975/SK009 Rev A and

- incorporating the recommendations made in the Road Safety Audit, to a layout compliant with DMRB CD 123, or other means of access, to a layout standard compliant with DMRB, as may be approved under separate planning approval that can also be demonstrated to accommodate the level of development under consideration; ii. The proposed means of access shall include details of a footway to be provided across any part of the existing access that will not form part of the proposed access, as appropriate in terms of Condition 11i;
- iii. Any new footway provision shall be constructed to adoptable standard; and
 - iv. The means of relocating/revising the layout of the bus turning area, together with a method and operational statement to be approved by the bus operators. This is to ensure that vehicles entering or exiting the access can undertake the manoeuvre safely and with minimum interference to the safety and free flow of traffic on the trunk road.

Reason: To minimise interference with the safety and free flow of the traffic on the trunk road.

11. No part of the development shall become operational unless or until:
- i. The new access has been provided in accordance with the approved matters specified in conditions, or separate planning permission, as detailed in Condition 10 and is available for use by Calderstones and Midlothian Snowsports Centre;
 - ii. All new footways have been provided in accordance with the matters approved in terms of Condition 10iii;
 - iii. The bus turning area has been appropriately relocated/revised as appropriate in terms of Condition 10iv; and
 - iv. A Construction Management Plan has been submitted to and approved by the planning authority in consultation with Transport Scotland which allows works to the private access road and car parking to commence at the same time as the new access approved in terms of condition 10i is under construction.

Reason: To minimise interference with the safety and free flow of the traffic on the trunk road.

12. Notwithstanding the phasing plan secured by Condition 3 and approved under application 21/00536/MSC, no part of the development shall begin demolition or construction unless or until the proposed temporary traffic management works (including associated lighting, drainage, road sign, and road markings

works) have been constructed to a layout and type (and method) of construction generally in accordance with Drawing TM-O 70868 TM004, Drawing TM-O 70868 TM004A, and complying with Transport Scotland's Requirements of Temporary Traffic Management, all to the satisfaction of the planning authority, in consultation with Transport Scotland as the trunk road authority.

Reason: *To minimise interference with the safety and free flow of traffic on the trunk road.*

13. Prior to the commencement of the first phase of development (and any subsequent phase of development if there has been a change in design which impacts on vehicle numbers), additional traffic modelling shall be undertaken. The updated modelling assessment will include the final design of the site access and the proposed signalised junction to serve the Lothianburn Hotel development to the north. This assessment shall be submitted to and agreed in writing with the planning authority after consultation with the roads authority, Transport Scotland. This modelling will allow a better understanding of the impact each junction has on the other.

Reason: *To minimise interference with the safety and free flow of the traffic on the trunk road.*

14. Prior to the commencement of any phase of development, a Public Transport Strategy shall be submitted to and agreed in writing with the planning authority in consultation with the roads authority, Transport Scotland, that considers the various public transport improvements cited in the transport assessment. Thereafter the approved Public Transport Strategy shall be implemented at the site.

Reason: *To ensure that the development is adequately served by public transport services; and to minimise any interference with the safety and free flow of traffic on the trunk road network.*

15. Prior to the occupation of any part of the development, a comprehensive travel plan that sets out proposals for reducing dependency on the private car has been submitted and approved in writing by the planning authority, in consultation with Transport Scotland, as the trunk roads authority. The travel plan shall identify the measures to be implemented, the system of management, monitoring, review, reporting and the duration of the plan. Once approved the travel plan shall be implemented at the site.

Reason: *To be consistent with the requirements of NPF4.*

16. Prior to the commencement of any development on the site, details of the parking strategy within the site shall be submitted for the approval of the planning authority, in consultation with Transport Scotland, as the trunk roads authority. Thereafter the approved parking strategy shall be implemented at the site.

Reason: *To be consistent with the requirements of NPF4*

17. There shall be no drainage connections to the trunk road drainage system.

Reason: *To ensure that the efficiency of the existing drainage network is not affected.*

18. The proposed development shall be limited to the scale assessed within the transport assessment.

Reason: *To restrict the scale of the development to that assessed in relation to the transport assessment.*

19. Prior to the commencement of any development on the site, a Construction Traffic Management Plan for each phase of the development and addressing the relevant construction of the consultation with the trunk road authority, Transport Scotland.

Reason: *To minimise interference with the safety and free flow of the traffic on the trunk road; to ensure the safety of pedestrians and cyclists using the trunk road and adjacent facilities; and to be consistent with current guidance and best practice.*

20. The design and layout shown on the Location Plan illustrating Proposed Development is not approved as the development shown is illustrative only and is yet to be finalised and will be the subject of further submission and assessment.

Reason: *The application is for planning permission in principle and the details delineated within the illustrative site layout plan prospective images are for illustrative purposes only.*

21. The proposed retail use on the site shall remain ancillary to the overall use of the site as a leisure destination and Snowsports Centre. The retail use shall be limited to a maximum of 1000m² GIFA.

Reason: *General retail use on this site would not comply with the Midlothian Local Development Plan, however retail uses which remains ancillary to the main use of the site as a leisure destination and Snowsports Centre and of appropriate floor space is considered acceptable.*

22. Development shall not begin until an application for approval of matters specified in conditions for a programme of archaeological works (Evaluation) focussing on those areas unaffected by woodland and existing buildings, has been submitted to and approved in writing in by the planning authority. The location of the areas to be investigated will be subject to agreement in advance with the planning authority and the archaeology officer. The approved programme of works shall be carried out by a professional archaeologist prior to any construction works, demolition or pre commencement ground works take place unless otherwise agreed in writing by the planning authority.

Reason: *To ensure this development does not result in the unnecessary loss of buried archaeological material in accordance with policies ENV24 and ENV 25 of the Midlothian Local Development Plan 2017.*

23. With regard to construction site operations the following noise levels shall be met - 75 dB LAeq(12hr) (façade), with the best practicable means (BPM) at all times in accordance with BS5228 guidance.

The hours of operation during the construction period shall be restricted to:

Mon – Fri 08:00 – 19:00 hrs

Saturday 08:00 – 13:00 hrs

24. All fixed plant / machinery noise shall comply with the following:-
Night time (22:00 – 07:00 hrs) NR25 (internal, open window)
Day time (07:00 - 22:00 hrs) - NR30 (internal, open window)
25. For commercial / industrial / leisure noise affecting residential use (existing or proposed) when rated in accordance with BS 4142:2014, shall be less than +5dB above an agreed representative LA90.
26. In relation to all environmental, commercial, leisure sources, the combined noise level shall comply with the Night Noise Guidelines for Europe 2009 - 42 dB L_{Amax} (fast) (internal) for the avoidance of sleep disturbance; 40 dB(A) L_{night} (external) as defined by the Environmental Noise Directive, to protect from the long term adverse effects of night noise. The Midlothian Council design standards in relation to anonymous noise sources for residential uses are as follows:
- 55 dB LAeq(1hr) for daytime external garden amenity
 - 35 dB LAeq(1hr) for daytime internal living apartment
 - 30 dB LAeq(15min) for night time internal living apartment
(excluding fixed plant controlled by NR25 or NR20 if tonal).

Reasons for conditions 23 to 26: To ensure noise for the site during the construction and operational period do not significantly adversely impact on the nearby sensitive receptors.

27. In relation to dust generation, the Air Quality Assessment states that with no mitigation during the construction phase, the significance of dust soiling and PM10 is, at worst, medium adverse. To minimise impact on sensitive receptors it is recommended that a dust management plan is submitted to and approved in writing by the planning authority and thereafter the approved dust management plan is implemented in full during the construction period.

Reason for condition: Further assessment in relation to Air Quality and dust generation during the construction period in order to satisfactorily mitigate the potential impact of the development.

28. There shall be no external storage of materials, packaging or other items out with storage or other buildings, unless approved by the planning authority along with appropriate screening.

Reason: Given the prominence of the site and the provision of storage buildings on the site the need for further stage on the site should be minimised and provided only where absolutely necessary and where appropriate screening is provided.

29. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:
- i. signage for the construction traffic, pedestrians and other users of the site; ii. controls on the arrival and departure times for the construction vehicles and for site workers;
 - iii. details of piling methods (if employed);
 - iv. details of earthworks;
 - v. control of emissions strategy;
 - vi. a dust management plan strategy;
 - vii. waste management and disposal of material strategy;
 - viii. a community liaison representative will be identified to deal with the provision of information on the development to the local community and to deal with any complaints regarding construction on the site;
 - ix. prevention of mud/debris being deposited on the public highway; and,
 - x. material and hazardous material storage and removal.

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

Reason: *In order to control the construction activity on the site, ensure environmental impact during the construction period is acceptable and to ensure appropriate mitigation is in place. The applicant has submitted an outline CEMP in support of the application at Chapter 14 of the EIAR.*

30. Permitted development under Class 40, section (1) (e) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended, replaced or superseded by any subsequent regulation is expressly excluded within the site and no electricity substation shall be erected within the site unless details of its position and appearance have been submitted to and approved in writing by the planning authority.

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

31. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for the provision and use of electric vehicle charging stations has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

32. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for a scheme of sustainability/biodiversity for the site, including the provision of bricks and boxes for bats and swifts, and biodiversity friendly landscaping throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

33. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions setting out details, including a timetable of implementation, of superfast broadband has been submitted to and approved in writing by the planning authority. The details shall include delivery of superfast broadband prior to the occupation of each commercial building. The delivery of superfast broadband shall be implemented as per the approved details.

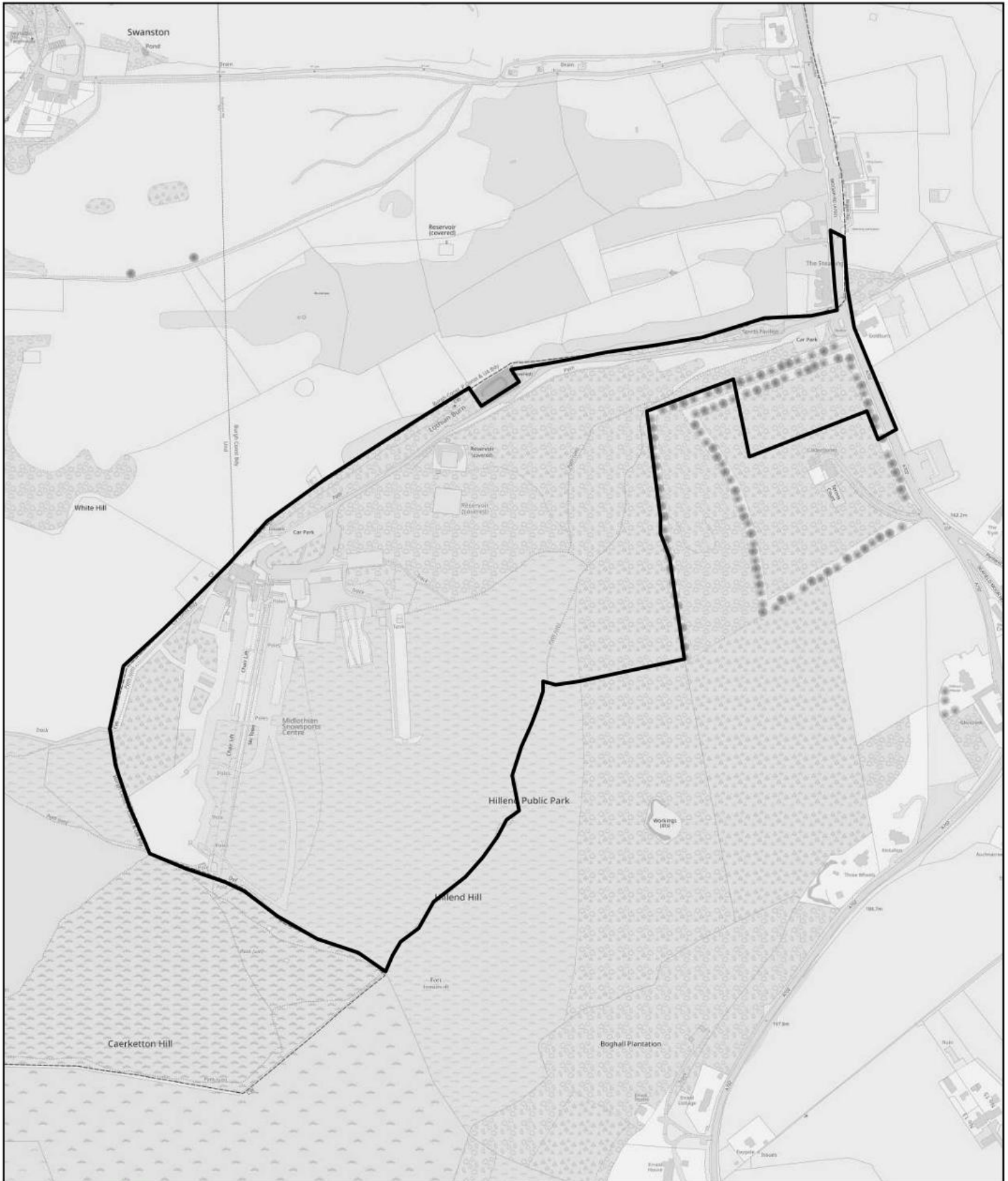
Reason: *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure.*

34. Further survey work and associated mitigation measures in relation to waste water and the potential impact on Groundwater Dependent Terrestrial Ecosystems shall be submitted to and approved in writing by the planning authority in consultation with SEPA.

Reason: *To ensure groundwater dependent terrestrial ecosystems are not significantly adversely impacted by the development.*

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date:	17 November 2023
Application No:	23/00532/S42
Applicant:	Midlothian Council
Agent:	Gregor Southall, Montagu Evans
Validation Date:	17 August 2023
Contact Person:	Martin J Patrick
Email:	martin.patrick@midlothian.gov.uk
Background Papers:	19/01018/DPP



**Planning Service
Place Directorate**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Section 42 application to amend condition 11 planning permission 19/01018/PPP at Midlothian Snow Sports Centre, Biggar Road, Edinburgh, EH10 7DU

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Scale:1:6,000

