

**APPLICATION FOR PLANNING PERMISSION 14/00293/DPP FOR THE
ERECTION OF FOUR RETAIL UNITS (PART RETROSPECTIVE) AT
SOUTRA MAINS FARM, BLACKSHIELS, FALA, PATHHEAD**

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the erection of four retail units at Soutra Mains Farm, Pathhead. Construction of the units has commenced and so this application is partially retrospective. There have been no representations received. Consultation responses have been received from Transport Scotland, The Wildlife Information Centre and the Council's Policy and Road Safety Manager. The relevant development plan policies are policies 3 and 8 of the Strategic Development Plan for Edinburgh and South East Scotland and policies RP1, RP5, RP6, RP7, ECON8, SHOP5, IMP1 and DP1 of the Midlothian Local Plan. This application is a re-submission of an earlier application which was refused planning permission by the Council's Local Review Body on 21 January 2014. The application is unchanged since the earlier refusal. The recommendation is to refuse planning permission.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The application site comprises a rectangular area of former agricultural land at Soutra Mains Farm. The site has been partially developed. The construction of four holiday cottages has started but has not been completed. A café building has recently been completed to the west of the application site.**
- 2.2 The site is bounded to the south by an area of mature trees, beyond the trees is the main A68 trunk road. A group of farm buildings, including a farm house, are located to the west of the site and open farmland surrounds the site to the north and east.**
- 2.3 Access to the application site is taken via a new access road from the A68.**

3 PROPOSAL

- 3.1 The proposal is for the completion of the four units which have been partially constructed. The units were previously granted planning permission for use as holiday cottages. This proposal would result in the cottage buildings being converted in to retail units.**

- 3.2 The retail units are to retain the appearance approved in the granting of permission for holiday cottages. They have been designed as a terraced row of single storey cottages. The external finishing materials are described as being natural slate roof and wet dash render walls.
- 3.3 A large parking area is to be located to the rear (north) of the retail units.
- 3.4 The applicant has submitted a selection of documents in support of the application, including:
- An undated statement from Susan Stanley of Lyndoch Antiques, Melrose, stating that she would be interested in leasing a unit;
 - An email, dated 11 March 2014, from George Pirie Antiques expressing an interest in a retail unit at the House of Soutra;
 - Two undated letters from employees of the adjacent café supporting the development of the site; and
 - An undated list of signatures, described as a petition, with the title “Planning for 4 farm shops at House of Soutra coffee shop”;
- 3.4 The above-mentioned letters of support and petition are not official representations as they were submitted by the applicant and were not generated in response to the planning application.

4 BACKGROUND

- 4.1 Outline planning permission, **08/00159/OUT**, for the erection of holiday cottages, coffee shop, parking area and new access road was approved in May 2010. Permission was granted subject to conditions, including a condition limiting the number of holiday cottages to four. The coffee shop was allowed as being ancillary to the main use of the site as holiday accommodation.
- 4.2 Planning application **10/00538/DPP** for the erection of a coffee/gift shop and four holiday lodges was refused in December 2010 for the following reasons:
1. *It has not been demonstrated that the proposed retail use has a requirement for a countryside location and it is not of a scale appropriate to its position in the countryside and area of great landscape value; for these reasons the proposal does not comply with the terms of policy RP1 of the Midlothian Local Plan.*
 2. *The proposal does not comply with the terms of policy ECON8 of the Midlothian Local Plan as it primarily comprises a retail development of an inappropriate scale in the countryside.*

3. *The scale, form and design of the proposed development will have an adverse impact on the character and appearance of the landscape, which forms part of the area of great landscape value, and which convey a level of development inappropriate to the confines of this site ; and is therefore contrary to the terms of policies RP6 and RP7 of the Midlothian Local Plan.*
 4. *The proposed tourist accommodation dwellings have not been designed to enhance the area of great landscape value and results in buildings that are out of character with the rural setting ;and as such do not comply with the terms of policies DP1 and ECON7 of the Midlothian Local Plan.*
 5. *The increased level of traffic generated by the retail use would lead to an increased level of traffic leaving and entering the trunk road which may be detrimental to the safety of other road users.*
- 4.3 Application **11/00199/MSC** to discharge the conditions of the original 2008 application was approved. However, it was only possible to discharge some of the conditions as information had not been submitted in connection with some of the outstanding conditions.
 - 4.4 Application **12/00067/MSC** was submitted to address the remaining outstanding matters relating to the 2008 and 2011 applications. However, insufficient information was submitted. Rather than give a further consent with more conditions it was decided to write to the agent to request the additional information. This was an attempt to conclude the planning involvement in the development and allow enforcement action to be discharged, as development had started in breach of conditions. After writing several unanswered letters to the applicant the planning authority granted planning permission, but again further conditions were attached to the decision notice.
 - 4.5 Application **13/00274/MSC** was submitted in order to discharge the outstanding matters from the 2008, 2011 and 2012 applications. This application was submitted with the same information as had been submitted previously. The planning authority again wrote several unanswered letters to the applicant, requesting the necessary additional information. On this occasion the planning authority refused the planning application due to not being able to assess the proposal given the lack of information submitted by the applicant.
 - 4.6 Details regarding materials and landscaping remain outstanding.
 - 4.7 Planning application **13/00370/DPP** for the erection of four retail units (part retrospective) was refused in September 2013 for the following reasons:

1. *The proposed development would comprise a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the Edinburgh and the Lothians Structure Plan (ELSP) policy ENV3 and adopted Midlothian Local Plan (MLP) policies RP1 and ECON8.*
2. *As the application site is in the countryside it is not in one of the locations specified in the ELSP policy RET1 - Sequential approach to the location of retail and commercial leisure development, as being potentially suitable for retail developments. Accordingly, the proposed development is contrary to ELSP policy RET1 and the adopted MLP policy SHOP5.*
3. *It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead.*
4. *It has not been demonstrated that the retail complex could operate successfully without having a significant and adverse impact on road safety on the trunk road.*

4.8 The applicant appealed the refusal of this application to the Local Review Body (LRB). The LRB dismissed the review request and upheld the decision to refuse planning permission on the following grounds:

1. *The proposed development would comprise a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the adopted Midlothian Local Plan (2008) policies RP1, SHOP5 and ECON8;*
2. *It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead; and*
3. *It has not been demonstrated that the retail complex could operate successfully without having a significant and adverse impact on road safety on the trunk road.*

4.9 The application has been called to Committee for consideration by Councillor de Vink to enable the Planning Committee to consider the potential economic benefits that the development may have.

5 CONSULTATIONS

- 5.8 **Transport Scotland** do not object to the planning application but do request that conditions be imposed seeking an adequate visibility splay and that the access arrangements comply with an earlier approved drawing, ref. no. 08063-SK-03. These conditions are required in order to maintain highway safety.
- 5.9 The Council's **Policy and Road Safety Team** have raised a concern regarding the rural location and lack of public transport for these retail units. They recommend that the development be served by a bicycle rack in order to promote sustainable forms of development.
- 5.10 **The Wildlife Information Centre (Biodiversity consultation)** considers that the proposal will not have any impact on protected species.

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 following policies are relevant to the proposal:

Edinburgh and South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 The Strategic Development Plan sets out some key aims, three of which are:
- Integrate land use and sustainable modes of transport, reduce the need to travel and cut carbon emissions by steering new development to the most sustainable locations;
 - Conserve and enhance the natural and built environment; and
 - Promote the development of urban brownfield land for appropriate uses.
- 7.3 Strategic Development Plan policy **3: Town Centres and Retail** aims to promote a sequential approach to the selection of locations for retail and commercial leisure proposals.
- 7.4 Strategic Development Plan policy **8: Transportation** seeks to ensure that new development minimises the generation of additional car traffic.

Midlothian Local Plan (2008)

- 7.5 Midlothian Local Plan 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.
- 7.6 Development supported through policy RP1 will need to demonstrate a requirement for a countryside location; be of a scale and character appropriate to the rural area; and, be well integrated in to the rural landscape.
- 7.7 Midlothian Local Plan policy **RP5: Woodland Trees and Hedges** does not permit development that would lead to the direct or indirect loss of woodland which has a particular value in terms of amenity, nature conservation, recreation, landscape character or shelter.
- 7.8 Midlothian Local Plan policy **RP6: Areas of Great Landscape Value** which advises that development will not be permitted where it may adversely affect the special scenic qualities and integrity of the Areas of Great Landscape Value.
- 7.9 Midlothian Local Plan policy **RP7: Landscape Character** which advises that development will not be permitted where it may adversely affect the quality of the local landscape. Provision should be made to maintain local diversity and distinctiveness of landscape character and enhance landscape characteristics where improvement is required.
- 7.10 Midlothian Local Plan policy **ECON8: Rural Development** seeks to support development in rural areas where:
- a. The proposal is located adjacent to a smaller settlement unless there is a locational requirement for it to be in the countryside;
 - b. The proposal is well located in terms of the strategic road network and access to a regular public transport service;
 - c. The proposal is of a character and scale in keeping with the rural setting, will not detract from the landscape of the area, and is sited, designed and landscaped so as to enhance the rural environment;
 - d. The proposal will not introduce unacceptable levels of noise, light or traffic in to inherently quiet and undisturbed localities nor cause a nuisance to residents in the vicinity of the site;
 - e. The proposal is capable of being served by an adequate and appropriate access;
 - f. The proposal is capable of being provided with drainage and a public water supply at reasonable cost, or an alternative acceptable private water supply, and avoiding unacceptable discharge to watercourses; and
 - g. The proposal is not primarily of a retail nature.

7.11 Midlothian Local Plan policy **SHOP5: Major Retail and Commercial Leisure Development outwith Strategic Town Centres and Straiton** suggests that retail developments should be located with town centres unless all the following criteria can be 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 to accommodate the proposed development or meet the identified need;
- 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 undermine the vitality or viability of existing town centres 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.

7.12 Midlothian Local Plan policy **IMP1: New Development**, this policy ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are transport infrastructure, landscaping, public transport connections, including bus stops and shelters, parking in accordance with approved standards, cycling access and facilities, pedestrian access, acceptable alternative access routes, access for people with mobility issues, traffic and environmental management issues, protection/ management/ compensation for natural and conservation interests affected, archaeological provision and 'percent for art' provision.

7.13 **The Scottish Planning Policy (SPP)** promotes a town centre first principle, which considers the health and vibrancy of town centres. The SPP promotes the use of the sequential town centre first approach, outlining the following order of preference for commercial development proposals:

- Town centre (including local centres);
- Edge of town centre;
- Other commercial centres identified in the development plan; and
- Out-of-centre locations that are, or can be made easily accessible by a choice of transport modes.

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 and, if not, whether there are any material planning considerations which would otherwise justify approval. A significant material consideration in this case is the Council's Local Review Body's decision to uphold the decision to refuse planning permission for retail units in this location.
- 8.2 The application site is located within a designated area of countryside and an area of great landscape value. The relevant policies of the local plan state that rural developments must demonstrate a requirement for a countryside location and take account of accessibility to public transport and services. In addition, development in the countryside must have an operational requirement for such a location that cannot be met on a site within an urban area or land allocated for that purpose, and it is compatible with the rural character of the area.
- 8.3 In relation to the information submitted by the applicant there is a lack of clarity with regards to what type of retail development is being proposed. It appears that the applicant has two parties interested in operating antiques shops from the application site. No supporting statement or business case has been submitted by the applicant to accompany the planning application.
- 8.4 The planning policies do support some forms of farm related diversification, including retail, in the rural areas of Midlothian. Appropriate retail based farm related diversification could include a farm shop selling goods grown or produced on the farm. However, it has not been demonstrated that the proposed development in this case constitutes farm related diversification. The proposal appears to form a speculative retail proposal in the countryside, for which there is no policy support.
- 8.5 Policy ECON8 of the local plan states that development will not be approved in rural areas where it is primarily of a retail nature. This application relates solely to the erection of four retail units and is, therefore, not in compliance with policy ECON8 of the local plan.
- 8.6 The proposed development has not demonstrated a requirement for a countryside location. Accordingly, the application proposals are contrary to policy RP1.
- 8.7 It is unlikely that any form of retail development could be argued to have an operational requirement to be located at Soutra, other than some form of agricultural-related sales. There is no operational requirement for antiques shops to be located at Soutra. These types of retail units should be located within existing retail centres, helping deliver sustainable economic development and contribute to town centre and retail centre viability.

- 8.8 Scottish Government Policy and the Strategic Development Plan seeks a sequential approach to the siting of new retail facilities which means that they should be located in accordance with the following priorities, depending on the availability of suitable opportunities within the expected catchment area of the proposed development: a) within a town centre; failing that b) on the edge of a town centre, or significantly close to form an effective extension to the centre; failing which c); within another shopping location of an appropriate size, character and function, including major shopping centres; failing which d) on the edge of such established shopping locations referred to in c), or sufficiently close to form an effective extension; failing which e) elsewhere within an existing or planned urban area defined in the local plan.
- 8.9 Generally, it would be expected that retail activities are sited within the town centres in Midlothian. Town centres are the sustainable option for retail activities given that they have the best access to public transport and greater footfall. Following the sequential approach ensures that development is guided to appropriate, sustainable and viable sites which support the community and economic growth in a logical and sustainable way.
- 8.10 The type of development proposed in this application, if supported, could readily undermine the viability and vitality of Midlothian's town centres. This type of retail development, which has no operational requirement for being in the countryside, attracts typical town centre uses away from the town centres in to areas where rent is generally lower.
- 8.11 The applicant has not provided details of likely employment figures, but these are presumed to be low, with those employed potentially having to arrive by car.
- 8.12 The application site does not benefit from good public transport links. In addition, the proposed development will potentially generate significantly increased levels of journeys by car, in particular compared to what would have been expected in relation to the original scheme for four holiday cottages. This is an unsustainable form of development and is significantly contrary to the aims of sustainable development as pursued by the Scottish Government and Midlothian Council, through planning policy.
- 8.13 Given the increased levels of car journeys generated by the proposed development it has not been demonstrated, despite requests during the Local Review Body (LRB) hearing in January 2014 that the access can accommodate the additional traffic. Transport Scotland has identified the requirement for sightlines measuring 215 metres in each direction. The applicant has not demonstrated that visibility splays of this distance can be achieved.

- 8.14 The Council has previously approved four holiday cottages on the application site. There is a demonstrated need for self catering accommodation within Midlothian, which resulted in a supportive policy (ECON7) in the adopted local plan. This application would result in the loss of these self catering cottages and their replacement with retail units for which no demand has been demonstrated.
- 8.15 At the LRB hearing in January 2014 the applicant was advised that the lack of information provided with his application resulted in the scheme being refused. The applicant has submitted exactly the same proposal with the same information as before. The decision of the LRB on the previous application is a significant material consideration in the assessment of the current proposal. The applicant has not responded to any of the LRB's comments or reasons for refusal in submitting the new application.
- 8.16 The policies of the development plan are intended to be applied consistently in order to give applicants and developers some certainty with regards to the potential outcome of planning proposals in principle. Departing from the approved and adopted policies undermines the effective implementation of the policies and wider aims of the Council as local planning authority as established in its adopted development plan.
- 8.17 While the Planning Authority does try to support business in Midlothian the developments need to be in appropriate locations and comply with the policies of the development plan. This proposed development does not comply with the aims of the planning policies and there is insufficient evidence to suggest that the potential economic benefit as a result of the development should be considered a significant material consideration which would allow the development to be supported.
- 8.18 For the above reasons, and given no justification for a departure from policy has been submitted for the planning authority to consider, the application is recommended for refusal.

9 RECOMMENDATION

- 9.1 That planning permission be refused for the following reasons:
1. *The proposed development would comprise a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the adopted Midlothian Local Plan (2008) policies RP1, SHOP5 and ECON8.*
 2. *As the application site is in a remote countryside location it is not in one of the acceptable types of locations, as specified in the sequential town centre first approach identified in the Scottish Planning Policy. As no sequential test has been submitted for*

assessment it has not been demonstrated, to the satisfaction of the Planning Authority, that the site is appropriate for the proposed use and that there are no other more sustainable or suitable sites which could accommodate the development more appropriately. Accordingly, the proposed development is contrary to the SPP, policy 3 of the Strategic Development Plan and policy SHOP5 of the adopted Midlothian Local Plan.

- 3. It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead.*
- 4. It has not been demonstrated that the retail complex could operate successfully without having a significant and adverse impact on road safety on the trunk road.*

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Date: 19 August 2014

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Background Papers:	08/00159/OUT, 10/00538/DPP, 11/00199/MSC, 12/00067/MSC, 13/00274/MSC, 13/00370/DPP