APPLICATION FOR OUTLINE PLANNING PERMISSION (02/00660/OUT) FOR THE DEVELOPMENT OF RESIDENTIAL, INDUSTRIAL AND COMMERCIAL FLOOR SPACE AND COMMUNITY FACILITIES (INCLUDING TWO PRIMARY SCHOOLS), WITH ASSOCIATED LANDSCAPING, PROVISION FOR SPORT AND RECREATION, AND NEW TRANSPORT FACILITIES (INCLUDING NEW ROADS, RAIL AND PARK-AND-RIDE FACILITIES) ON LAND BOUNDED BY THE A720, OLD DALKEITH ROAD, THE WISP AND THE BOUNDARIES WITH THE CITY OF EDINBURGH AND EAST LOTHIAN COUNCILS – FURTHER REPORT

Report by Director, Strategic Services

1 INTRODUCTION

1.1 A comprehensive report on this planning application was put to the Planning Committee in December 2003. At this meeting the Committee

(a) noted the progress that had been made on the consideration of the application;

(b) confirmed that the basic pattern of developments and land uses contained in the outline application and the accompanying Master Plan accorded with the Shawfair Local Plan and that it was therefore minded to grant outline planning permission for the development once all the outstanding matters had been resolved, including all necessary legal agreements;

(c) confirmed that, once the details of the Master Plan and Design Guidance had been finalised and agreed, it would recommend that they be adopted by the Council as Supplementary Planning Guidance in association with the Shawfair Local Plan; and

(d) agreed to authorise the Director, Strategic Services to undertake the necessary negotiations in respect of the agreements required under Section 75 of the Town and Country Planning Act 1997 to secure the appropriate amounts of developer contributions towards the provision of infrastructure required by the proposed development, and to report back to the Committee in due course.

1.2 This report explains the current position and provides a brief outline of what is involved in the application. The main outstanding issues from December 2003, which this report advises on are the consultations from Transport Scotland Trunk Road Network Management, and updates on the Section 75 Legal Agreement, the Master Plan and Design Guide. The Committee has already
agreed in principle to grant planning permission for 165 houses at Millerhill and for a business park (and related facilities), private hospital and park and ride facility at Todhills.

1.3 A copy of the Master Plan and Design Guide will be placed in the Members library.

2 LOCATION AND SITE DESCRIPTION

2.1 The application site coincides with the boundaries of the adopted Shawfair Local Plan. It extends from the boundary with the City of Edinburgh Council at Newcraighall in the north to the A720 City Bypass in the south; and from Millerhill Marshalling Yard in the east to The Wisp/Old Dalkeith Road in the west. The site encompasses the existing settlements of Danderhall, Millerhill and Newton Village.

2.2 The site encompasses an area of approximately 705 hectares (1744 acres), of which about 141 hectares (348 acres) will actually be developed. The greater part of the land within the site is currently in agricultural use but in addition to the settlements referred to above there is also an extensive area of former industrial land at the former Monktonhall Colliery.

3 PROPOSAL

3.1 The application is for outline planning permission for the development of a new urban settlement, together with the extension of existing settlements, in general accordance with the proposals in the Shawfair Local Plan which, in turn, stem from the proposals for the development of the South East Wedge in the Lothian Region Structure Plan 1994.

3.2 Although planned in an integrated manner, the proposed development can be divided into a number of separate areas, for convenience:

- **Whitehill** An area of approximately 6 hectares of land at the north-eastern corner of the site, proposed for industrial development.

- **Danderhall** Two areas proposed for the expansion of this settlement; one on the northern side of the village, and the other on its south-eastern side. In total, an area of 20.64 hectares of land is involved, intended to provide up to 490 new houses.

- **Todhills** An area of 16.62 hectares of land situated to the south of Danderhall, on the southern side of the former Loanhead railway line, which is proposed for use as a business park (25,000 sq. metres gross floorspace), and a park-and-ride facility.

- **Shawfair** This is the heart of the new community, situated in an area extending from south Millerhill to Shawfair Farm, and from the former Monktonhall Colliery site to Millerhill Road/Newton Village. A total of approximately 97 hectares of land is proposed for development for up to 3,500 houses; up to 45,000 sq. metres of business floorspace; two new
double-stream primary schools; and a new town centre, based around a railway station on the proposed Edinburgh – Borders rail link, and containing retail and community facilities.

3.3 In addition to these development areas, a comprehensive network of new and upgraded roads is proposed, together with a network of footpaths and cycleways. A landscape framework for the development is also proposed, ranging from formal sports pitches and recreational facilities to parks and community woodlands, and encompassing a hierarchy of play areas within the residential areas. The landscape framework will also be integrated with the Sustainable Urban Drainage System (SUDS) for the proposed development, so that the regional SUDS facilities will be incorporated as features within the landscape.

3.4 Although the application has been submitted in outline, a great deal of supporting and illustrative material has been submitted, indicating how the development will take place. Of particular importance in this respect is the Master Plan, which expands on the basic land-use proposals in the outline application and indicates how development is expected to take place within each of the development areas. It includes such matters as suggested densities of development; building heights; treatment of the roads hierarchy; and development of the town centre. It is supplemented by more detailed Design Guidance, which identifies specific character areas within the main development zones, and provides more detailed advice on design matters, including suggested palettes of materials to be used. In addition, more detailed guidance has also been provided on the landscape framework, and on the proposed SUDS network. The Design Guide was not finalised when the Committee considered the application in December 2003.

3.5 In addition to this supplementary material, an Environmental Statement and a Transportation Assessment were submitted with the application and these documents were addressed in the December 2003 report to the Committee.

4 SECTION 75 LEGAL AGREEMENT - CURRENT POSITION

4.1 Negotiations have been ongoing between the Council and the consortium of Shawfair Landowners for some time. A report on the main heads of terms was put to the Cabinet on 6 March 2007. The Cabinet agreed the main heads of terms and authorised the Director, Strategic Services and the Director, Corporate Services to conclude the detailed terms and conditions for the Section 75 Legal Agreement along with any other related necessary legal agreements. The proposed agreement includes financial contributions for infrastructure and provision of remediated and serviced land for up to 800 affordable housing units.

4.2 The Shawfair Landowners are required in the main heads of terms approved by the cabinet to make financial contributions for the following:

- Improvements to Sheriffhall Roundabout
- Public Transport
- Waverley Railway Line
• Woolmet Park – provision of land and pitches
• Woolmet Park Sports Centre
• Danderhall Leisure Centre
• Extension to Dalkeith High School
• St Davids High School
• Newton Primary School (new)
• Shawfair Primary School including denominational provision (new)
• Extension to Danderhall Primary School
• Civic and Community Space in Shawfair Town Centre

4.3 In addition to the financial contributions detailed above the Legal Agreement requires further provision is made for other items as the development progresses, including:

- the provision of core roads, footways and cycleways
- the provision of landscaping including provision for its management and maintenance
- the undergrounding of power lines
- the provision of the structural elements of the town centre
- the provision of a site for a supermarket and appropriate car parking and other retail units
- temporary and permanent medical facilities and the potential for land to be made available for the extension to the existing Medical Facility at Danderhall
- serviced and remediated land is to be made available for Affordable Housing
- land suitable for allotments is to be made available.

4.4 Negotiations on the Legal Agreement are at an advanced stage and it is anticipated that it will be ready for signature by the parties in the summer. The planning permission can not be issued until the Legal Agreement has been signed and recorded.

5 CONSULTATION REPLIES – OUTSTANDING ISSUES

5.1 At the time of the previous report to the Planning Committee the consultation reply from Transport Scotland Trunk Roads Network Management (TRNMD) was awaited. A response was received in October 2006. The consultation reply stated that TRNMD did not propose to object to the application subject to specified conditions being attached to any planning permission granted by the Council. TRNMD’s conditions are set out in the following paragraphs.

5.2 The **first condition** relates to restriction on occupation of any part of the built development (outwith Todhills) until provision has been made towards improvements to Sheriffhall Roundabout in the form of a grade separated function or other agreed works. The details are to be to the satisfaction of the Planning Authority in consultation with TRNMD. Within the original Transport Assessment prepared for this proposal an ‘at grade’ scheme for mitigating the impact of the development at Sheriffhall was proposed, however due to the existing operating issues at the roundabout TRNMD concluded that
such measures were not appropriate in this instance. Although an appropriate scheme for a grade separated junction could be achieved Transport Scotland recognises the level of congestion which currently exists at the roundabout, and that predicted increases in the future cannot solely be attributed to the development at Shawfair.

5.3 TRNMD also recognise that there are wider development pressures within both Midlothian and East Lothian Council areas. TRNMD’s Directorate are considering options to deliver a potentially more extensive scheme to address the traffic pressures at this section of trunk road network as part of the forthcoming Strategic Projects Review. On the assumption that any such scheme is likely to be more extensive and presumably more expensive than that required to mitigate solely the South East Wedge Development, TRNMD accept that it would not be appropriate at this time to require physical works to be delivered at Sheriffhall Roundabout prior to the construction and occupation of the development. Provision of an appropriate financial contribution would be an acceptable alternative to the restriction of development pending physical works at the roundabout.

5.4 On the basis that a suitable mechanism to secure such a contribution and hold it pending delivery of the appropriate scheme can be achieved and included within the Section 75 Legal Agreement, TRNMD would consider the condition to be fully discharged. It is also accepted that in the event of the non delivery of the scheme it may be appropriate to channel the contributions to other defined TRNMD measures, such as Public Transport. Appropriate wording within a S75 Agreement will be required.

5.5 The second condition specified by TRNMD requires that no part of the built development shall be occupied until a scheme for public transport provision has been implemented to the satisfaction of the Planning Authority, in consultation with TRNMD. A copy of the relevant section of the draft S75 agreement has been passed to TRNMD for their comments.

5.6 The third condition required by TRNMD refers to the submission and approval of a Travel Plan for the development setting out proposals for reducing the dependency on the private car. It is intended to cover this requirement by condition although it should be noted that the draft Section 75 Legal Agreement does refer to and require implementation of pedestrian and cycle infrastructure and measures to improve public transport facilities, for example.

5.7 In relation to the consultation reply the applicant has asked that 180 dwellinghouses can be built and occupied prior to the main spine road being completed which links the A7 to the A6101 and prior to the closing of the Millerhill leg of the Sheriffhall roundabout. The developers argue that they need to be able to sell land in order to fund the construction of the spine road. They are agreeable that no development can start until a tender has been let for the construction of the spine road and that the tender will require the road to be constructed within 12 months. They are of the view that it is unlikely that 180 houses could be built within 12 months. It is for cash flow reasons that the developers have requested this relaxation. A formal response from Transport
Scotland in relation to the 180 houses is awaited although verbally they are agreeable to this relaxation.

5.8 In the previous report to the Planning Committee a number of consultees confirmed that they had no objection or would remove their objection if specific conditions were attached to the outline consent if it were granted. Appropriate conditions can be attached to the permission to address the concerns highlighted.

5.9 At the time of the previous report to Committee the Royal Fine Art Commission for Scotland highlighted the importance of a good quality Master Plan and that there be a degree of flexibility to allow the Master Plan to adapt if required. They commented that the developer and Council should be striving to ensure that the new settlement achieves a sense of place and does not become another dormitory town. They noted that the proposals were at an early stage and they requested an update when details of the application had been progressed. The Royal Fine Art Commission for Scotland was replaced by Architecture and Design Scotland (ADS) as a non-statutory consultee in April 2005. It would be appropriate to advise ADS of the approved Master Plan and Design Guide when agreed and advise them further on any agreed adaptation of the Master Plan/Design Guide as development progresses and these documents are reviewed.

6 MASTER PLAN AND DESIGN GUIDE

6.1 The Shawfair Local Plan (adopted September 2003) required the submission of an outline planning application for the whole Local Plan area. Policy IMP2 states that outline planning permission would be conditioned upon the submission of a satisfactory Master Plan. The Master Plan sets out a vision of how the new and expanded settlements will look and function. It establishes the design principles on which the development of the whole area will be based, and which will need to be followed by the developers of each site within the area.

6.2 Given the size of the proposed development and the timescale for its completion, circumstances will inevitably change over time and the Master Plan must allow for a degree of flexibility to adapt to such changes. Regular reviews of the Master Plan should be carried out once development has commenced. The Section 75 Legal Agreement is to be reviewed every 5 years. It would be appropriate to review the Master Plan (and Design Guide) after two years to assess any immediate issues and then with timescales coinciding with the review of the Section 75 agreement. The basic pattern of development established by the Master Plan follows very closely the indicative proposals in the adopted Local Plan and it is not envisaged that this will be significantly amended.

6.3 The Master Plan also sets out principles relating to densities of development with the various areas of the site and maximum building heights as well as the extent of building/frontages along the core road network, in this way creating a three-dimensional concept for the new settlement.
6.4 The Master Plan has recently been amended to reduce heights of development, the maximum number of storeys being lowered from five to four. Some flexibility to allow architectural features (such as turrets) to be higher in places will be considered in terms of their contribution to the townscape and on an individual basis.

6.5 Policy DES1 in the Local Plan states

“Generally, housing densities should be highest in and around Shawfair town centre and local facilities, decreasing towards the outskirts. Densities should be upwards of 45 units per hectare net (excludes open space but includes abutting roads from which houses directly access) in the highest density areas and otherwise between 15 and 20 units per hectare net. This approach will help avoid unsatisfactory suburban layouts”.

The Master Plan indicates generally higher densities than those stated in the adopted Local Plan. The highest density areas are in and around the town centre (50 to 90 units/ha) which complies with local plan policy. It is outwith these areas where densities fall to medium density (35 – 55 units/ha) and low to medium density (20 – 35 units/ha) towards the outskirts of the new settlement and the extensions to Danderhall. The applicant has submitted a note regarding this discrepancy in which they conclude that the densities stated in the Local Plan would require either a reduction in the number of units to be built or an increase in the amount of land allocated for new development.

While the density of development will be higher than was envisaged in the Local Plan nevertheless the Design Guide and Master Plan as amended indicate high quality development for the local Plan Area. The overall aim of the lower density areas is to help avoid unsatisfactory suburban layouts and the contents of the Master Plan and Design Guide address this concern. In this respect it can be concluded that the extent of departure from the Local Plan is not significant.

6.6 The Master Plan is supplemented by the Design Guide which sub-divides the development zone into character areas and sets out more detailed design principles for each zone. These design principles are carried forward from the Master Plan and create a series of distinct “places” within the new and expanded settlement. It establishes a very high benchmark for design standards. It is not the intention to stifle design initiatives but rather to send the message to developers and their architects that, if they wish to depart from the guidance they must demonstrate that their proposals are of equal or, preferably, better design quality.

6.7 The Design Guide requires to be amended to reflect the maximum number of storeys and heights of buildings amended in the Master Plan and noted above. There are other detailed changes which require to be made, which include clarification on external materials and form of buildings, distance between buildings, and stand-off distances between existing and new buildings for example.

6.8 In order to amend the Master Plan and Design Guide so that planning permission could be issued as soon as possible addenda are being prepared for each document stating all the changes which are to be made, which include...
clarification on external materials and form of buildings, distance between buildings and the stand-off distance between existing and new buildings for example. The addendum for the Design Guide is more extensive and the Design Guide will be re-drafted to incorporate all of the changes in due course. Using the addenda will allow the permission to be issued once the legal agreement is signed and recorded in order to avoid further delay. The Master Plan and Design Guide should be adopted as Supplementary Planning Guidance subject to the amendments in the agreed addenda. The approved Master Plan and Design Guide will require to be taken into account in determining all subsequent planning applications within the area of the Shawfair Local Plan.

7 DRAFT CONDITIONS

7.1 A list of draft conditions are appended for approval in the Appendix.

8 PROCEDURE

8.1 The planning authority must notify Scottish Ministers if it intends to grant planning permission for a development which is on land which it owns where that development does not accord with an adopted local plan or there has been a substantial body of objections. In this case, the Council owns land within the application site. However, the development accords with the adopted local plan for the area in the main. The issue of densities, raised in the report is minor in the context of the plan and on this basis it can be reasonably concluded that notification is not required. In addition, it was considered in the report to the Committee in December 2003 that, given the scale of the proposal, it had not been subject to a substantial body of objections. Consequently notification of Scottish Ministers in terms of the above-mentioned requirement is not necessary. Given that Transport Scotland have not objected to the application, there is no need on this basis for notification.

8.2 A new Planning Circular (5/2007: Notification of Planning Applications) was published in May 2007. This circular requires Planning Authorities to Notify the Scottish Ministers if it is proposed to grant planning permission for any development where an Environmental Impact Assessment was required. The new Directive comes into effect on 1st July 2007 and as it is unlikely that planning permission can be granted by this date the Scottish Ministers will have to be notified of this application.

8.3 The Local Authority has a responsibility to carry out the Strategic Environmental Assessment (SEA) of supplementary planning guidance where this is required. While it is not anticipated that such assessments will be required in this instance this remains to be concluded through statutory screening procedures with SEPA, SNH and Historic Scotland. The Master Plan and Design Guide can be approved as Supplementary Planning Guidance only once it has been established that there is no need for them to be subject to Strategic Environmental Assessment.
9  RECOMMENDATION

9.1  I recommend that the Committee:

(a) notes the progress that has been made in relation to the agreement required under Section 75 of the Town and Country Planning (Scotland) Act 1997 to secure the appropriate amounts of developer contributions towards the provision of infrastructure required by the proposed development;

(b) approves the Master Plan and Design Guide as Supplementary Planning Guidance subject to the amendments outlined in this report and that I be authorised, in consultation with the Chair of the Planning Committee, to approve such other minor alterations as may be required; and

(c) grants outline planning permission for the development subject to:

(i) the prior signing of a legal agreement as detailed in this report;
(ii) conditions to be prepared by me, in consultation with the Chair of the Planning Committee, to include the matters referred to the Appendix; and
(iii) the prior notification to the Scottish Ministers

IAN L YOUNG
DIRECTOR

28 August 2009

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Background Papers: 02/00660/OUT
APPENDIX
Proposed Conditions relating to Application Ref No 02/00660/OUT

Conditions will include the following

- Proposals for dealing with contaminated land and shafts, adits or other mineral workings and subsequent validation.

- A survey of existing trees on the site.

- Proposals for dealing with Waste within the site in accordance with adopted Shawfair Local Plan policy.

- Proposals for treating surface water within the whole site, specifically in relation to a “SUDS train”, and proposals for treating surface water during the construction period.

- Detailed plans showing the layout on the site including levels information.

- Details of open space and landscaped areas including equipped play areas. Details of their future maintenance are also required.

- Access proposals.

- Walls and fences proposed and a programme for provision.

- Extent of private and communal land, and proposals for the maintenance of communal land.

- Location of existing and proposed underground services.

- Street lighting.

- Hard-surfaced areas.

- Traffic calming road features and surfacing.

- Tree and hedgerow survey, and control over removal and protecting trees during construction.

- Site works compound area

- Details of building elevations, materials, parking, circulation space and landscaping.

- Compliance with approved Master Plan and Design Guide.

- Provision for review of the Master Plan and Design Guide.
- Environmental Remediation to address all of the mitigation measures recommended in the Environmental Statement.

- Communally maintained landscaping, together with any foot or cycleways not adopted by the Council to be retained in use as open space for public use. Open space shall not be enclosed without the prior approval of the planning authority.

- Buildings to be served by road and footpath prior to completion/occupation

- Programme for provision of walls and fences.

- Hours of construction.

- Control over erection of electricity sub stations.

- Grounding of overhead wires.

- Restriction on use of buildings within employment areas and use of external areas.

- Green Travel Plan provisions and implementation.

- Details of biodiversity provision, and further surveys to safeguard flora and fauna.

- Time limit for submission of details – fifteen years.