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Our ref: PPA-290-2032
21 December 2017

Dear Mr Glen

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

TOWN AND COUNTRY PLANNING (15/00364/PPP) (MIDLOTHIAN COUNCIL) (PLANNING PERMISSION IN PRINCIPLE FOR A MIXED USE DEVELOPMENT COMPRISING; FILM AND TV STUDIO INCLUDING BACKLOT COMPLEX, MIXED EMPLOYMENT USES RETAIL/OFFICE/COMMERCIAL, HOTEL; GAS AND HEAT POWER PLANT/ENERGY CENTRE; FILM STUDIO AND STUDENT ACCOMMODATION; STUDIO TOUR BUILDING; EARTH STATION ANTENNA AND ASSOCIATED INFRASTRUCTURE INCLUDING CAR PARKING; SUDS FEATURES AND LANDSCAPING ON LAND TO THE NORTH AND SOUTH OF PENTLAND/DAMHEAD ROAD, STRAITON, MIDLOTHIAN) DIRECTION 2017

1. This letter contains Scottish Ministers' decision on the above application for planning permission in principle.
2. The application for planning permission in principle was made to the planning authority, Midlothian Council, in May 2015. As a result of the planning authority not having given notice of their decision on the application, an appeal was made to the Scottish Ministers under section 47(2) of the Town and Country Planning (Scotland) Act 1997 ("the Act") in December 2015. Under the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 2010 the appeal came into a class to be determined by a person appointed by Scottish Ministers, rather than by Scottish Ministers themselves. In exercise of the powers under paragraph 3(1) of Schedule 4 to the Act, Scottish Ministers directed, on 10 December 2015, that they would determine the case themselves. This was because Scottish Ministers recognised the potential economic and cultural benefits associated with the proposal to be an issue of national importance.
3. Concerns were raised that the appeal under section 47(2) of the Act was not properly made due to a discrepancy between the identities of the applicant and the appellant. It is not considered that any such discrepancy has undermined the substantive consideration of the

application or has given rise to any unfairness to any parties to the process. In order to remove any doubt that Scottish Ministers have the necessary jurisdiction to consider the case, Scottish Ministers gave a direction under section 46 of the Act on 3 April 2017. A direction under section 46 operates to refer the case to Scottish Ministers for determination.

4. The application was considered by written submissions by reporter David Buylla BA(Hons) MRTPI appointed by Scottish Ministers for that purpose. The reporter sought further information via two procedure notices issued on 25 January 2016. On 5 April 2016, the reporter made a formal request for further environmental information under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. The reporter conducted unaccompanied site inspections on 12 February and 20 June 2016. The final report with reporter's recommendation was issued to Scottish Ministers on the 22 December 2016.

5. Scottish Ministers issued a notice of intention on 3 April 2017 indicating that they were 'minded to grant' planning permission in principle for a film and TV studio (and other uses) at land to the north and south of Damhead/Pentland Road subject to the conclusion of a planning obligation (a financial contribution to the A701 relief road and other specified road improvements) and imposition of conditions, including restrictions on development over a reserved area of the A701 relief road. Scottish Ministers have received confirmation from the agents Keppie Design, acting on behalf of Pentland Studios Ltd., that the Section 75 Agreement has been recorded with Registers of Scotland.

6. Since the notice of intention was issued, the examination report into the proposed Midlothian Council local development plan has been published and Midlothian Council subsequently adopted their new Local Development Plan on 7 November 2017.

The Reporters' Reports

The Report

7. Chapter 1 of the report provides relevant background, chapter 8 considers the proposed local development plan and chapter 10 sets out the reporter's overall conclusions and the recommendation that planning permission in principle be refused. Due to the presence of protected species within the ecological study area that are liable to persecution, certain parts of the reporters report have been redacted in public copies of the report.

Scottish Ministers' Decision

8. Scottish Ministers have carefully considered all the evidence, including the environmental information, presented by the written submissions, and the reporter's conclusions and recommendations and do not support the reporter's recommendation to refuse this application for the reasons set out below. Scottish Ministers have for the reasons given below determined that planning permission in principle should be granted subject to conditions.

Development plan

Midlothian Local Development Plan

9. The development plan comprises the recently adopted Midlothian Local Development Plan ("MLDP"), that replaces the 2008 Midlothian Local Plan, and the South East Scotland

Strategic Development Plan (“SESplan”) approved in June 2013. SESPlan 2 (2016) was submitted to Scottish Ministers for examination on 26 June 2016.

10. The 36 hectare Pentland Studio site comprises two parts on either side of Pentland Road. The southern site (Site A, approximately 23 hectares) is promoted for a film and television studio including a studio tour site, backlot areas, a hotel, an energy centre, a film school campus with student accommodation, a data centre, and an earth station antenna. The northern site includes land (Site B, approximately 13 hectares) where it is proposed to locate employment land and backlots.

11. In the Midlothian Local Plan the entire site was allocated as greenbelt. The proposed local development plan allocated all of Site B for development, with approximately 80% of Site A designated countryside and prime agricultural land and the remainder staying within the green belt. The Pentland Studio site is now identified in the MLDP as a mixed-use site (Mx1). This references Scottish Ministers’ intention to grant planning permission in principle for the proposal to identify the most up-to-date planning position in relation to the site. The MLDP states that the intention of Scottish Ministers is unique to the development proposed and therefore the principle of allowing any other development of the site would not necessarily be supported. Site Mx1 is specifically identified on the proposals map for Loanhead, Straiton & Bilston (map 6) and the settlement statement map for Loanhead/Straiton but as a transparent layer where the existing designations/allocations would continue to apply until such time as the application site was fully developed. Consequently, the designations of 80% Countryside, Prime Agricultural Land and 20% Greenbelt and on the southern site (site A) remain in the MLDP until that part of the site is fully developed. Site B is now wholly located within the mixed use allocation Ec3 (West Straiton).

12. The MLDP also states that development of the site will require investigation of ground stability and contamination (condition 10); archaeological investigation (condition 8); tree and hedgerow protection (conditions 2, 4, 5); and a robust landscaping scheme to integrate with landscaping required for site Ec3 (conditions 2, 3). These tie in with the proposed conditions.

13. Scottish Ministers had previously set out in their notice of intention that they agreed with the reporter’s conclusions that the proposal was contrary to the provisions of the then development plan in that the proposed development in the Greenbelt/Countryside did not meet the necessary criteria of the (now superseded) Midlothian Local Plan. The most up-to-date component of the development plan is now the MLDP. Scottish Ministers decision is taken in accordance with the current development plan, unless material considerations indicate otherwise. In light of the now adopted MLDP, Scottish Ministers consider that the reporter’s overall view that the proposal is contrary to the development plan has been superseded. Scottish Ministers now consider that the proposal is in line with MLDP for the reasons set out below.

14. The revised policies in the adopted MLDP in terms of development in the Greenbelt, Countryside and Prime Agricultural Land are in essentially the same terms as the Proposed Plan as considered by the reporter in the context of this case and upon which all parties have had the opportunity to make representations.

15. According to the adopted MLDP, Policy RD1 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 or tourism. This part of the policy has not changed significantly from the Midlothian Local Plan. However the MLDP policy includes a new section on ‘Business in the Countryside’. This states that development

opportunities that will enhance rural economic development opportunities will be permitted provided they meet criteria relating to scale and character, servicing, travel and infrastructure. The reporter has accepted that the proposal offers the opportunity for significant socio-economic benefits at a local and national level and therefore is it considered that the proposal can derive some support from this policy.

16. In terms of the loss of prime agricultural land, Ministers accepted the reporter's overall conclusion in paragraph 10.11 that the proposal's socio-economic benefits on a national and local scale and (from a developer's point of view) the locational suitability of this site for the proposed development, outweigh the value of retaining this small area of prime agricultural land in productive agricultural use. The reporter did not regard this conflict with policy as a significant concern and Ministers agree with this consideration.

17. MLDP Policy ENV1 on Greenbelts has changed from the Midlothian Local Plan to permit development that meets a national requirement or established need if no other site is available. This criteria was put forward in the proposed plan and reflects the requirement in paragraph 52 of Scottish Planning Policy. Given the proposal's potential for significant benefits on a national scale and the applicant's locational justification for siting the proposed development in this location, it is considered that the proposal can derive some support from this policy.

18. As noted above, this particular development is promoted as a unique site Mx1 in the MLDP. Scottish Ministers agreed with the reporter regarding the proposal's potential for significant benefits on a national scale and gave these material considerations significant weight in their intention to grant planning permission in principle. The reporter also accepted the applicant's argument that there is a locational need for the film studio proposal at this site. These positives have been balanced against the disbenefits of loss of countryside, prime agricultural land and greenbelt land and Scottish Ministers consider that there is now sufficient weight in the MLDP to support the proposed development. As such Ministers consider that the proposal is in accordance with the MDLP.

SESplan

19. Paragraph 10.17 of the report sets out that the then proposed, now adopted, MLDP allocates all of Site B for development, with approximately 80% of Site A designated countryside and prime agricultural land and the remainder staying within the green belt. The reporter considered that only Site B could realistically be described as falling within and contributing to strategic SESplan policy SDA 10. Paragraph 38 of the examination report concludes that the allocation of site Ec3 would not be at odds with the provisions of SESplan policy 1B (the spatial strategy: development principles) or SESplan policy 8 (transportation). Site A is now promoted as site Mx1 in the MLDP. Scottish Ministers do not accept that only site B contributes to the aspirations of SESplan, for the reasons set out below.

20. SESplan identifies the A701 corridor as Strategic Development Area 10 ("SDA 10"). The spatial strategy in SESplan for SDA 10 requires 1,600 residential units and over 15 hectares of additional employment land within the A701 corridor. While the A701 relief road is not specifically referenced in SESplan, the reporter concludes in paragraph 8.33 of the report that the relief road is intended to form an integral part of the improved infrastructure investment that is referred to in SESplan, and that a significant element of the proposed LDP's development strategy will be reliant upon the relief road being delivered. The A701 Relief Road and A702 Link are identified as strategic projects in the proposed SESplan 2.

21. In assessing the merits of the proposal in paragraph 10.15 of the report, the reporter concluded that the fact that this general area (SDA 10) has been identified as one of the most suitable locations in the SESplan area for focussing significant levels of development provides a limited amount of support for the proposed development. This was on the basis that the proposal could undermine the proposed (now adopted) MLDP's attempt to deliver the housing and employment sites in the A701 corridor, including bio-technology and knowledge-based industries that are required by the SDA 10 designation. While Ministers accept the strategic importance of this area in SESplan, they do not accept the reporter's conclusions that the proposal would threaten the delivery of those SDA 10 requirements for the reasons set out in paragraphs 26-32.

22. There is support in SESplan for a mixed use development of this nature within the A701 corridor. SESplan also identifies creative industries as one of the sectors that has strategic importance to the SESplan area. The reporter's report acknowledged that the proposal offers the opportunity for significant socio-economic benefits at a local and national level. Scottish Ministers consider that, with the use of a Grampian condition to secure the delivery of the A701 relief road (see below), the potential for significant socio-economic benefits on a local and national level arising from the proposed development outweighs any dis-benefits of the development to the strategic aims of SESPlan. As such Ministers consider that the proposal is in accordance with the SESplan.

Prematurity in Relation to the Proposed Local Development Plan

23. The reporter considered (paragraph 8.50 of the report) that the potential for the grant of planning permission for the proposed development to undermine the plan-making process for the emerging local development plan (undergoing examination at the time of the report) should, in accordance with paragraph 34 of SPP, be given significant weight by in the determination of the application.

24. It is noted that the reporter's principle concerns in this regard related firstly to the proposal's potential impact on the delivery of A701 relief road (paragraph 8.41 of the report) and secondly, to the potential for the proposed development to have unacceptable cumulative effects with the extensive level of development that the now adopted MLDP intends to allocate in the A701 corridor (paragraph 8.42).

25. The reporter's concern that there would be prejudice to the emerging local development plan was a significant factor (paragraphs 9.32 and 9.33 of the report) in the reporter making a recommendation that planning permission in principle should not be granted "at this time" – i.e. the date of the report – and so recommending refusal of the application. The question of prejudice to the emerging local development plan has since been superseded by the adoption of the MLDP. Accordingly the potential for prejudice to the preparation of the local development plan is no longer a consideration. The adopted MLDP now provides support for the proposed development with the application site being included in the MLDP as a 'unique' use for a film and studio proposal.

A701 Relief Road

26. In paragraph 8.39 of the report, the reporter considered the option of granting planning permission in principle with no specific reservation provided for the relief road, but with a requirement that the development accommodate the road, once its existence and subsequently its alignment has been confirmed. However, due to uncertainty in that approach, and the concerns raised by the developer over the potential for a road through the site to render the land unsuitable for the proposed development, this was not considered as

a feasible option by the reporter. The reporter also considered the planning authority's concerns (paragraph 8.35 of the report) that defining a narrow route corridor for the road at this stage would threaten the deliverability of the relief road due to the constraint it would impose on the remaining sections of the route, some of which would have to cross (or preferably avoid) challenging ground conditions.

27. The significance of the proposed A701 Relief Road for the proposed allocations in the adopted MLDP is not disputed. Given the uncertainty around the precise location and land uptake required for the proposed A701 relief road, and to address the reporter's concern regarding the impacts of this proposal upon its delivery, Ministers determine that a Grampian (suspensive) condition (condition 14) be attached to the grant of consent. This condition would prevent the proposed development from commencing until an appropriate location for the A701 relief road has been carefully considered and approved in writing by the planning authority and safeguarded. This is in order to ensure that the mixed use film studio proposal would not prejudice the aspirations for a relief road in the MLDP.

28. Ministers consider that the use of a Grampian condition could secure the route of the A701 relief road within the site, so that its planned delivery through the adopted MLDP or the spatial strategy of SESPlan would not be compromised. Ministers recognise that the location of the route of the A701 relief road has potential to impact on the proposed development but consider that as the route is yet to be established this is not sufficient grounds to refuse to grant planning permission in principle.

29. The proposed plan had stated that site Ec3 could not be developed before the A701 relief road has been provided. Paragraph 56 of the examination report removes the reference requiring the relief road prior to construction on site Ec3 from the proposed plan. The examination report considered such a restriction could limit investment and promotion of the site and would prevent the "Midlothian Gateway" commencing in advance of the relief road. This modification was accepted by the council in their adoption of MLDP.

30. The MLDP sets out two proposed routes for the A701 relief road which would pass through Site A. The applicant had suggested in an unresolved representation to the proposed plan examination that the A701 relief road should be moved as it would impact on the viability of the mixed use film studio proposals. An alternative route to the west of Cameron Wood was suggested. This suggestion was proposed prior to the issue of the notice of intention by Scottish Ministers' requiring a reserved area to be identified and protected from development. Since then, the applicant has indicated in writing that it supports the continued representation of the relief road in the MLDP rather than a buffered corridor being shown instead.

31. Paragraph 42 of the MLDP examination report notes that although the council suggest that the two potential routes for the A701 relief road are the "best fit" in relation to feasibility studies undertaken, the final route is yet to be confirmed. The examination report considered that there may be justification for movement of the relief road route as more detailed studies are undertaken. The examination report concluded that the requirements of condition 13, set out in Scottish Ministers intentions letter regarding the Pentland proposal, would be suitable to protect the delivery of the relief road; and that no revision to the routes shown in the proposed plan was required. The examination report also notes that, significantly, the condition does not require the construction of the relief road in advance of development of the film and TV studios (and other uses).

32. Paragraph 44 of the examination report also set out that in terms of financing the A701 relief road project the council has investigated various methods of delivery including

front-funding from borrowing and/or investment through the Edinburgh City Deal for infrastructure. Consequently, the council has acknowledged through further written submissions that delivery of the relief road may not be reliant on developer funding. However, developer contributions towards the relief road would be required from certain related developments to aid delivery of the project (and pay back borrowings if required).

Cumulative effects with proposed developments in the MLDP

33. The reporter's second principal concern with regard to the development plan is the potential for the proposal to have unacceptable cumulative effects with the extensive level of development that the new MLDP intends to allocate in the A701 corridor. In paragraph 8.42 of the report the reporter considers that even if the proposed development did not affect the delivery of the relief road, it is possible that there could be cumulative effects with this other development and that this is a separate issue that requires to be addressed.

34. The reporter had asked the applicant to broaden its consideration of the cumulative effects from that set out in the Environmental Statement to include potential cumulative effects with the development of the A701 corridor Strategic Development Area as defined in the SESPlan. The applicant did not consider that it would be possible or helpful to model the cumulative effects of its proposal along with the development the planning authority proposes to allocate in the A701 corridor through the proposed LDP on the basis that there were too many uncertainties to make a meaningful assessment.

35. Scottish Ministers acknowledged in their intentions letter that that due to this lack of appropriate information on cumulative effects, there were uncertainties about the degree to which development emerging from the LDP process could be accommodated in addition to the proposed development. On this basis Ministers accepted that there was a degree of prejudice to the proposed LDP process. The MLDP has however now been adopted and the proposed mixed film use development is now promoted in the MLDP as unique site site Mx1.

36. It is noted that there were no objections from either the Council's Roads Authority or Transport Scotland in regards to this proposal. Given the general nature of the proposals, for which a cumulative impact proposal would likely have been able to provide only a broad indication of possible impacts, and in light of the strategic planning aims for the A701 corridor as a primary development location for growth and investment, Scottish Ministers considered that a cumulative impact assessment was not essential to allow them to reach a decision on the principle of the development at this location. As the proposal has been included in the now adopted local development plan, as set out above at paragraphs 23-25, there is no necessity for further consideration of potential impacts on the emerging local development plan.

37. Site B is located within site Ec3 of the MLDP. It is considered that the remaining proposals in Site A are not out of scale with other proposed employment sites and are consistent with the nature of development proposed along the A701 corridor. The applicant intends to build the proposal in phases, with the film studio being part of the first phase, and this has been reflected in a new condition added to the consent. The use of the Grampian condition means the development cannot proceed until the route of the A701 relief road has been secured.

38. In terms of strategic aspirations, it is not considered that the proposed development's mix of uses, scale and location would run counter to the delivery of the spatial strategy set out in SESplan. In this particular circumstance, and in the context of the aspirations for significant growth in this area and the limited development potential of Site B (due to ground

conditions), it is considered that the likelihood of substantial adverse impacts on the delivery of SESplan spatial strategy, as reflected in the adopted MLDP, is not high. In addition to this, a planning obligation has been entered into, as recommended by the report, to commit the developer to make a financial contribution to the A701 relief road and to fund improvement of the A701/B702/A720 westbound off-slip/A720 eastbound on-slip junction. Ministers agree this appears to be an appropriate means of mitigating the impact of this proposal on these roads and the proposed A701 relief road.

39. On balance, Ministers consider that the granting of planning permission for the proposed development would have potential to undermine the strategic aspirations of SESplan but only to a limited extent. Ministers consider that the special nature of the development and expected socio-economic benefits of national scale arising would outweigh the prejudice to the plan making process.

Material considerations

Socio-economic

40. Paragraphs 7.16-7.21 of the report set out predicted employment figures associated with the development. It is predicted that 600 staff would be employed at the peak of the construction period and 320 employed full time during the operational phase of the development. A further 580 staff are predicted to be employed by production companies carrying out individual productions at the site, a total of 900 full time equivalent staff. The developer indicates that if the operator also chose to operate the site as a tourism venue in its own right then it could be expected that additional socio-economic benefits would arise. Ministers accept the reporter's conclusions at paragraph 7.39 that the proposal's net economic effect would be significantly positive at both the local and national level.

Ecology & Noise, Vibration and Air Quality Effects

41. Ministers accept the reporter's consideration that noise issues, concerns over ground conditions within the site and effects on ecological interests could be adequately controlled by conditions. The reporter noted that air quality issues were a concern to a number of objectors, although the planning authority raised no objections in this regard. Air quality effects were not assessed in the environmental statement (the scope of which was agreed with the authority and SEPA). It is noted that no objections were received from SEPA or other statutory consultees relating to air quality effects.

Landscape and Visual Effects

42. It is noted that while the reporter considers the proposal would cause significant adverse effects on the character of the local landscape and on the visual amenity of those who live, work and travel nearby, he states these would be confined to a small radius around the site and would not involve any landscape that is recognised in the development plan as having particular value. Scottish Ministers accept the reporter's consideration that visual effects beyond the immediate environs of the site would be insignificant.

43. Paragraph 1.20 of the reporters report sets out that the coal authority noted that the site falls within a defined Development High Risk Area, which means that within the application site and surrounding area there are coal mining features and hazards which need to be considered. The authority was satisfied that the Environmental Statement correctly identifies the risks to the development posed by unrecorded underground shallow coal mine workings. The authority welcomed both the site layout, which appears to have been informed

by the presence of the mine entries and the commitment to locate, investigate and treat them. On the basis that site investigations are proposed to establish the exact situation with regard to possible shallow coal mine workings, The Coal Authority raised no objections to the proposal, subject to a suitable planning condition.

Transport

44. The reporter raised concerns regarding potential cumulative effects with the substantial level of development that the then proposed local development plan intended to allocate along the A701 corridor as discussed in paragraphs 33-39 above. It is also noted that no objections were received from either the Council's Roads Authority or Transport Scotland. Scottish Ministers agree with the reporter's conclusion that the additional traffic generated by the proposal could be accommodated within the road network without unacceptable delay or safety effects.

Energy

45. The proposed development includes a gas powered CHP plant/energy centre. The reporter sought further environmental information regarding the size and generating capacity of the proposed energy centre. The applicant subsequently submitted an Energy Strategy Summary Revision A, dated 20 May 2016 by Hoare Lea - A high level summary of the masterplan energy strategy for the Pentland Studios development. This confirmed that the proposed energy centre would have a power output well below the 50 megawatt threshold (the point at which such proposals require consent under the Electricity Act 1989). The reporter notes that if the applicant wanted to increase the capacity of the energy centre above 50 megawatts, this would require a separate application for Electricity Act consent. And if it wanted to change the fuel source from that which has been environmentally assessed, a further application for planning permission would be required. The reporter advises that should Ministers be minded to grant planning permission in principle, it would be possible to use conditions to restrict the details of the energy centre to those specified in the further environmental information provided by the developer. Ministers have noted this advice and a condition (condition 12) has been attached to the proposed permission tying the energy centre specification to the details set out in the Energy Strategy Summary Revision A, dated 20 May 2016 by Hoare Lea.

Summary

46. Ministers consider that use of a Grampian condition, to require prior agreement of the route of the A701 relief road before development can commence, would secure the prospect of both the proposal and the relief road being appropriately delivered. It is considered that the proposal is in line with the spatial strategy of SESplan and the aspirations that the newly adopted MLDP is seeking to set out within the A701 corridor. On this basis Ministers do not consider that the proposal would prejudice the delivery of housing and employment sites identified in the MLDP and SESplan. It is considered that the anticipated significant socio-economic benefits of this specialist mixed use proposal, on a local and national scale outweigh any potential negative consequences to the development plan including loss of Countryside/Greenbelt, localised impacts on amenity and uncertainty around cumulative road and traffic impacts.

Conclusion

47. Having considered the matter, Scottish Ministers are satisfied with the legal agreement and hereby grant planning permission in principle for the above development, subject to the conditions set out in the Annex to this letter.

48. The Scottish Ministers direct under section 59(5) of the Town and Country Planning (Scotland) Act 1997 that subsection (2)(a)(i) of section 59 of that Act is to apply as respects the planning permission in principle hereby granted with the substitution for the period of 3 years referred to in that subsection of the period of 5 years from the date of the grant of this planning permission in principle.

49. The foregoing decision of Scottish Ministers is final, subject to the right, conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997, of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date hereof. On any such application the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or any orders, regulations or rules made under these Acts.

50. A copy of this letter has been sent to Midlothian Council and parties who participated in written submissions. Other interested parties have received a letter advising that a copy of this letter is available on DPEA's website or from this office.

Yours sincerely

JOHN McNAIRNEY
CHIEF PLANNER

ANNEX

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

PLANNING PERMISSION IN PRINCIPLE FOR A MIXED USE DEVELOPMENT COMPRISING FILM AND TV STUDIO INCLUDING BACKLOT COMPLEX; MIXED EMPLOYMENT USES RETAIL/OFFICE/COMMERCIAL; HOTEL; GAS AND HEAT POWER PLANT/ENERGY CENTRE; FILM SCHOOL AND STUDENT ACCOMMODATION; STUDIO TOUR BUILDING; EARTH STATION ANTENNA and ASSOCIATED INFRASTRUCTURE INCLUDING CAR PARKING; SUDS FEATURES AND LANDSCAPING ON LAND TO THE NORTH & SOUTH OF PENTLAND/DAMHEAD ROAD, STRAITON, MIDLOTHIAN) (PLANNING AUTHORITY REF: 15/00364/PPP)

CONDITIONS OF PLANNING PERMISSION

1. Development shall not begin until an indicative masterplan including phasing of the development has been submitted to and approved in writing by the planning authority. The indicative phasing schedule shall include all the component parts of the proposed development including a sustainable urban drainage system and transportation infrastructure. The film and television buildings shall be proposed and implemented as part of the first phase of development, which may also include the Energy Centre, Film School and Student Accommodation, and Data Centre. Development shall thereafter be carried out in accordance with the approved indicative masterplan and phasing unless agreed in writing with the planning authority

Reason: The application site is to be included in the proposed Midlothian Local Development Plan, as described in the Examination Report, as a 'unique' use and as such it is essential that the film and television studios are the main use of the site.

2. Plans and particulars of the matters listed below shall be submitted for consideration by the planning authority. Matters may be approved individually in relation to each phase of development identified in relation to condition 1 above, Thereafter the development shall be implemented in accordance with the phasing approved in terms of this consent, unless otherwise agreed in writing with the planning authority. No work shall commence on any phase until the written approval of the authority has been given for the matters below for the said phase, and the development shall be carried out in accordance with that approval:

Approval of Matters:

- (a) siting, design, slab levels and the height of all built structures, including the design of all external features and glazing specifications and acoustic capabilities;
- (b) detailed site layout including the layout of all buildings, roads, footpaths and cycle routes;
- (c) design and configuration of open spaces, including all levels, materials and finishes;
- (d) car and cycle parking,
- (e) waste management and recycling facilities;
- (f) surface water and drainage arrangements including SuDS;
- (g) existing and finished ground levels in relation to Ordnance Datum for the entire development;
- (h) full details of sustainability measures;
- (i) hard and soft landscaping details, including:
 - i) existing trees, landscaping features and vegetation to be retained, removed, protected during development and in the case of damage, restored;
 - ii) proposed new planting in communal areas and open space, including trees, shrubs, hedging and grassed areas;

- iii) location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- iv) schedule of plants to comprise species, plant sizes and proposed numbers/density;
- v) programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses on adjoining plots are occupied;
- vi) drainage details and sustainable urban drainage systems to manage water runoff;
- vii) proposed car park configuration and surfacing;
- viii) proposed footpaths and cycle paths (designed to be unsuitable for motor bike use);
- ix.) areas of the site that will provide habitats that are recognised as important in the Midlothian Local Biodiversity Action Plan; and
- x) proposed cycle parking facilities;

Reason: to ensure that the matters referred to are given full consideration and to accord with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. All hard and soft landscaping proposals approved pursuant to condition 1 shall be carried out in accordance with a scheme that has been approved in writing by the planning authority as the programme for completion and subsequent maintenance. Thereafter, any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

Reason: to ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP20 of the Midlothian Local Plan and national planning guidance and advice.

4. Prior to the commencement of any phase of this development, temporary fencing is to be erected around all trees within said phase to be retained and around any trees out with that phase where the canopy of the tree overhangs the boundary of said phase. The fencing shall be positioned in circumference to the trunk at a distance from it which correlates to the trees canopy unless otherwise agreed in writing with the planning authority. No excavation, soil removal or storage shall take place within the enclosed area.

Reason: to ensure the development does not result in the loss or damage of a tree which merits retention in accordance with policies RP5 and RP20 of the Midlothian Local Plan and national planning guidance and advice.

5. No trees within the site shall be lopped, topped or felled unless otherwise agreed in writing with the planning authority.

Reason: to ensure the development does not result in the loss or damage of a tree which merits retention in accordance with policies RP5 and RP20 of the Midlothian Local Plan and national planning guidance and advice.

6. No development shall take place on any phase of the development until a ground contamination survey and associated remediation strategy for that phase has been submitted to, and approved in writing by, the planning authority. The scheme shall contain details of the proposals to deal with any contamination and include:

- i) the nature, extent and types of contamination on the site;

- ii) measures to treat or remove contamination to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination originating within the site;
- iii) measures to deal with contamination encountered during construction work; and
- iv) the condition of the site on completion of the specified decontamination measures.

Any works of remediation and any other requirements that are identified in the approved remediation strategy shall be completed to the written satisfaction of the planning authority in accordance with a timetable that has also been agreed in writing with that authority.

Reason: to ensure that construction workers and future users of the site are not at risk from ground contamination.

7. Prior to the commencement of any phase of this development, details of the access arrangements and haulage routes for construction traffic accessing and leaving the site on said phase have been submitted and approved in writing by the planning authority. Thereafter all construction traffic shall access and leave the site in accordance with the approved details.

Reason: to ensure the safety and convenience of existing local residents and those visiting the development site during the construction process.

8. Prior to the commencement of any phase of this development, the applicant will undertake and report upon a programme of archaeological work in accordance with a written scheme of investigation for said phase has been submitted by the developer and approved in writing by the planning authority.

Reason: to ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policy RP28 of the Adopted Midlothian Local Plan.

9. No construction, engineering or other works or the operation of machinery shall take place outwith the hours of 8.00 am to 7.00 pm on Mondays to Fridays and 8.00 am to 1.00 pm on Saturdays unless otherwise agreed in writing with the planning authority.

Reason: to minimise disturbance to nearby residential properties from noise, construction traffic and other pollution.

10. Prior to the commencement of any phase of this development, the physical suitability of the ground on which that phase would be built shall be investigated and a report submitted to and approved in writing by the planning authority. This report will deal with issues including ground stability, former mine workings and the risk to the development from ground gas. Development shall not proceed except in accordance with any approved mitigation measures.

Reason: to ensure that the development pays proper regard to ground conditions.

11. The development hereby approved shall not include any element of retail or office accommodation unless such accommodation has been confirmed in writing by the planning authority to be of a scale and form that is incidental to the studio use.

Reason: the effect on the vitality and viability of town centres of incorporating town centre uses within this out of centre development has not been assessed.

12. The generating capacity, fuel source and other details of the energy centre hereby approved shall be in accordance with the details set out in the Energy Strategy Summary Revision A, dated 20 May 2016 by Hoare Lea.

Reason: to ensure that the development accords with the environmental that informed the decision to grant planning permission in principle.

13. No building or other site structure shall exceed 28.6 metres in height above its slab level or above the level of the existing ground in the location where that building or structure would be built.

Reason: to ensure that the development accords with the environmental information that informed the decision to grant planning permission in principle.

14. (1) No development shall be commenced unless and until a reserved area map has been submitted to and approved by the planning authority.

(2) No development shall be carried out on the area of land shown on the approved reserved area map.

(3) In this condition-

“reserved area map” means a map showing the reserved A701 relief road area;

“reserved A701 relief road area” means the area of land which is to be reserved for the construction of the proposed A701 relief road and associated works and upon which there is to be no development in accordance with this planning permission; and

“proposed A701 relief road” means a relief road, between the A720 Straiton Junction and the A703 road, and linking to the A702.

Reason: to ensure that the development makes adequate provision for the A701 relief road.

15. . Prior to the commencement of any phase of this development, a Construction Noise and Vibration Management Plan relating to construction activities of said phase and any other phase that is under construction at the time shall be submitted to and approved in writing by the planning authority. Construction work shall not proceed except in accordance with the approved plan or unless otherwise agreed with the planning authority.

Reason: to ensure that construction activity has an acceptable impact in terms of noise and vibration.

16. Prior to the commencement of any phases of this development, a Construction Environment Management Plan (CEMP) relating to construction activities of said phase shall be submitted to and approved in writing by the planning authority. The CEMP shall include the following details

- Signage for the construction traffic, pedestrians and other users of the site,
- Controls on the arrival and departure times for the construction vehicles and for site workers;
- Piling methods (if employed)
- Earthworks;
- Control of emissions,
- Waste management and disposal and material re use,
- Prevention of mud / debris being deposited on public highway;
- Materials storage; and hazardous material storage and removal.

Construction work shall not proceed except in accordance with the approved plan.

Reason: to ensure that construction activity has an acceptable impact in terms of noise and vibration.

17. During the operational phase of all parts of the development, plant noise from all sources will be controlled such that the 'Rating Level' at any noise sensitive receptor location shall not exceed the low background levels established by baseline noise survey*. *Note: The target Rating Levels are given in Table 10.17 'Environmental Noise Criteria' of the Noise & Vibration chapter Environmental Statement (WSP/BP). The design and installation of all plant and machinery shall be such that any associated noise complies with NR25, or NR20 if there are noticeable acoustic features present.

Reason: to ensure that plant noise has an acceptable effect on sensitive receptors.

18. Prior to commencement of works, the detailed site layout, buildings orientation and design shall be submitted for approval, along with an acoustic report demonstrating that breakout, emissions and propagation from such sources are mitigated to an acceptable level.

Reason: to ensure that noise from buildings has an acceptable effect on sensitive receptors.

19. No filming activity shall be undertaken until a Noise Management Plan has been submitted to and approved by the planning authority. This Noise Management Plan shall include sections to address the following matters:

- Identifying appropriate hours of operation restrictions in relation to the full range of operational activities resulting in sound which can be heard beyond the site boundary;
- Identifying appropriate noise level criteria in relation to the full range of operational activities resulting in sound which can be heard beyond the site boundary, having regard to their associated hours of operation;
- Processes and procedures for internal and external lines of communication, identifying personnel roles, responsibilities and appropriate levels of decision making;
- The implementation and regular review of a policy to ensure a high standard of community engagement, neighbour liaison and dissemination of information;
- The Implementation and regular review of a complaint management policy.

Reason: to ensure that noise from filming has an acceptable effect on sensitive receptors.

20. Prior to the commencement of development a remediation scheme, including a scheme of intrusive site investigations, to afford public safety and the stability of the proposed dwellings from the risks posed by the recorded mine entries (adits) shall be submitted to and approved in writing by the planning authority. Once approved, the scheme of intrusive site investigations shall be completed and the report of its findings shall be submitted to and approved in writing by the planning authority before any works commence on site.

Reason: to ensure public safety in regard to former mine workings.

21. Prior to works commencing, a mitigation scheme for effects on bats and barn owls shall be submitted to and approved in writing by the planning authority. The approved mitigation measures shall be followed in full as part of the site redevelopment.

Reason: to ensure that predicted effects on these protected species are adequately mitigated.

22. Prior to development commencing, a scheme setting out maximum scale parameters for any temporary built development on the backlot areas of the site shall be submitted to and approved in writing by the planning authority. Once approved, temporary built development may take place within the backlot areas without further approval from the planning authority, provided that this development is removed within 12 months of erection. No temporary built development shall take place within the backlot areas that would exceed the agreed scale parameters or would be retained for more than 12 months shall take place unless it has been approved in writing by the planning authority.

Reason: to provide an appropriate balance between regulatory freedom and the control of adverse effects on those parts of the site where regular changes in built form are to be expected.