

NIG /73/57/1

20 November 2015

Development Planning  
Planning and Economic Development  
West Lothian Council  
County Buildings  
High Street  
LINLITHGOW  
West Lothian  
EH49 7EZ

Dear Sirs,

**WEST LOTHIAN LOCAL DEVELOPMENT PLAN: PROPOSED PLAN  
REPRESENTATION ON BEHALF OF BIZSPACE LIMITED:  
EUCAL BUSINESS CENTRE, CRAIGSHILL ROAD, LIVINGSTON**

We are instructed by Bizspace Limited (Ltd), to make representations to the Local Development Plan Proposed Plan consultation with respect to property they own, at Eucal Business Centre, Craigshill Road, Livingston.

A written representation prepared by Rapleys LLP has been electronically uploaded to the Online Consultation Response portal at [https://www.esurveycreator.co.uk/s/WLC\\_PROPOSEDPLAN](https://www.esurveycreator.co.uk/s/WLC_PROPOSEDPLAN)

The representation objects to the proposal to remove the current adopted local plan housing allocation site HLv68, at Craigshill Road site. As such, BizSpace Ltd is seeking re-instatement of the proposal as a future residential allocation (for up to 25 units) within the emerging West Lothian Local Development Plan.

As is evidenced within the attached supporting statement, the site provides a small scale, effective and deliverable opportunity for future housing development in West Lothian. There is a current lack of available small scale housing opportunities, coupled with a falling demand for the type of serviced office accommodation as existing, then the Eucal Business Centre site provides an opportunity to contribute towards the strategic housing development objectives of the Local Plan through the re-use of the site for a use in need, and within a sustainable brownfield location.

Previous discussions have taken place with West Lothian Council regarding the re-allocation of the site for housing development (January 2013). With limited new housing in the surrounding Livingston area, for the types envisaged here (modern, family, terraced and semi-detached with affordable), the allocation of the site would meet current demand, on a suitable brownfield site.



Furthermore, a recent housing development to the rear of the fire station, adjacent to this site demonstrates demand for, and the success of, new housing developments in this predominantly residential area.

The re-allocation of this land for housing, would secure a new use for the underutilised site. The new use has less risk to cause a detrimental impact on the local amenity, and would be compatible with the surrounding residential use.

In summary, our client's are actively seeking the redevelopment of the site to housing and consider the re-instatement and inclusion of this site as a housing site within the forthcoming LDP will be a suitable and effective proposal for this underutilised site.

Should you require any additional details, please do not hesitate to contact me.

Yours sincerely,

**Neil Gray MA(Hons), MSc, DipTP MRTPI**  
**Partner – for and on behalf of Rapleys LLP**





## Eucal Business Centre – Craigshill Road, Livingston

### West Lothian Council Proposed Plan Consultation November 2015

Located within a predominately residential part of south east Livingston, Eucal Business Centre is a small single storey business/industrial unit, offering serviced business space, storage, office and mechanical service uses. The centre offers a combined total of 1,446sq m of business space ranging from 11sq m to 57 sq m per business unit. However there is only a 33% occupancy rate despite refurbishment, tenant incentives and other interventions to improve the position. The site is currently identified in the adopted West Lothian Local Plan 2009 as Housing Proposal HLv 68, with an indicative capacity of 25 units. In the ongoing review of the adopted local plan, West Lothian Council has decided to remove the Housing Proposal HLv 68. The emerging Local Development Plan, Proposed Plan version identifies the site as having no designation, effectively “white land”. This change does not offer the landowner certainty about future development prospects and appears to be a decision taken by the Council without explanation. Rapleys has undertaken “soft” marketing of the site to potential housebuilding interests to gauge market interest. Whilst there is interest, these companies are not willing to fully commit without the certainty of a Local Development Plan allocation despite the locational attraction, the availability of land, free from constraint and a willing landowner.

#### Changed Ownership

Bizspace recently acquired the Eucal Business Centre from a portfolio belonging to Highcross Strategic Advisers Limited. Previously, and based upon the support of the adopted Local Plan Proposal HLv 68, Highcross had intended to proceed with a planning application for residential development as is evidenced from previous correspondence from Rapleys to West Lothian Council in 2013 (Appendix 1). The response indicated that the planning department would support residential development on the site. Due to a change in market circumstances however, Highcross’ intention was never carried out and the site has since changed ownership to Bizspace. The new owners have undertaken a strategic review of its portfolio of sites. Amongst a range of options following that review, Bizspace wish that the property remains identified as suitable for residential development so that it can plan with greater certainty in the short to medium term by securing planning permission for residential use.

#### Poor Market Interest for Business Space of this Type

Given the evidence of poor market interest for business/industrial use at this location there are currently 17 vacant units within the business centre, totalling a combined floorspace of 468 sq m (see Appendix 2), the landowner is asking West Lothian Council to maintain the current local plan housing allocation for the site (HLv 68) as it is believed the site provides a ready made, effective opportunity for housing development. Its use will also be more in keeping with surrounding housing land uses, creating a more sustainable place.

Market evidence demonstrates that the need for employment land of this type and stock within Livingston and West Lothian is now much reduced, and unlikely to pick up in the new LDP’s life. A recent report prepared by Ryden states that; “Areas such as Fife, West Lothian, Falkirk and Grangemouth have experienced a reduction in enquiries from this normally active (industrial) business sector.” (Appendix 3) However demand for housing in West Lothian of the right type and scale remains strong given the area’s prime location with good strong transport connections to Edinburgh, Glasgow and other key employment areas within West Lothian along the M8 corridor.



As such, we strongly believe that the site should be retained as a housing allocation in the forthcoming Local Development Plan, providing an ideal location for a deliverable housing development of up to 25 units.

#### Opportunity for Change of Use Compatible

The site is located in a predominantly residential area. It can be accessed from the north (Craigshill Road) and the west (Craigshill Street). Public transport serves the site with frequent bus services running around the town providing connections to further beyond. The site is bounded by green open space to the east beyond which is residential. To the south and the west lies residential housing and to the north is a fire station (with planning permission for housing), beyond which is further housing. The redevelopment of this site to housing would therefore not be out of keeping with the place. On the contrary to do nothing, continue to operate an underutilised out of date business centre would cause future detriment to the residential amenity of the area through lack of use, further vacancy and potential degradation of the local environmental quality as a result.

This representation aims to demonstrate that there is an over-supply of serviced employment space of this type of stock and that a future economic viable use is to re-develop the site for residential use. The residential use is effective because as a small scale site it can be delivered in a short period of time and can be readily integrated into the existing urban form.

#### Employment Land

Although currently in use as employment land, the site is not identified within the adopted WLLP or emerging WLLDP Proposed Plan as employment land. The Employment Land Allocations Appendix One of the Proposed Plan, (see Appendix 4) provides locations within West Lothian considered by West Lothian Council as suitable for employment. With many business centres and industrial parks located across West Lothian, particularly within Livingston and around West Lothian's M8 corridor, there is and will continue to be in future, a plentiful selection and choice for businesses. Market evidence however suggests that many of these locations remain under-occupied due to over-supply and a lack of demand. The Eucal Business Centre stock is considered to be no longer fit for business styles and needs in 2015-16 where modern, environmentally-designed and fitted new stock is desired. The Employment Land Allocation (Appendix One of the Proposed Plan) demonstrates that a number of allocated sites are now supported by West Lothian Council for relaxed use class types (as defined in the Town and Country Planning (Use Classes) (Scotland) Order 1997 ; from the familiar Class 4,5,6 (business, general industry, storage and distribution) to include Class 2 – Financial/Professional Services or other uses not in a class of their own (sui generis).

This is further evidenced by the shortening of demand for Eucal Business Centre itself, which continues to have vacant units despite sustained marketing attempts by the landlord dating back over five years. Although well-connected to the local roads network, the site does not sit well for business use, being removed from other business and no longer well-positioned for this purpose. Furthermore, the building condition of the business centre itself is now ageing, with more superior and better located premises available elsewhere within West Lothian. The landlord cannot justify rental values to compete with other locations where quality of location, building and purpose is a definitive factor and as such risks losing further occupiers leading to a





downward decline of the offer itself. This is not a desirable position to become and Bizspace is looking for support and future certainty from the Local Plan process to help stem this effect.

The lack of demand for the business centre accommodation at this location is further evidence that Planning Permission was granted in 2010 (0568/FUL/09) for the change of use of one of the business units from Business to Class 1 retail. The proposal was initially recommended for refusal, however this was overturned by committee members and approved. The main concerns of the proposal related to traffic and not to the principle of change of use, suggesting the Council were sympathetic to the changed fortunes of commercial property at this location.

## Housing

With a gross area of 1.7 acres (0.8ha), the site is small in comparison with other large housing sites allocated and preferred in the emerging LDP Proposed Plan. It is anticipated the site could accommodate between 20-30 residential homes of varying styles ranging from terraced, semi and detached family homes. This small number would however provide a deliverable source of additional housing for Livingston and West Lothian, where the strategic housing land position is in need of a generous supply according to Scottish Planning Policy.

Scottish Planning Policy (SPP) Paragraph 40 requires spatial strategies within development plans to promote a sustainable pattern of development appropriate to the area. To do this, decisions should be guided by the following policy principles:

- optimising the use of existing resource capacities, particularly by co-ordinating housing and business development with infrastructure investment including transport, education facilities, water and drainage, energy, heat networks and digital infrastructure;
- using land within or adjacent to settlements for a mix of uses. This will also support the creation of more compact, higher density, accessible and more vibrant cores;
- considering the re-use or re-development of brownfield land before new development takes place on greenfield sites;
- considering whether the permanent, temporary or advanced greening of all or some of a site could make a valuable contribution to green and open space networks, particularly where it is unlikely to be developed for some time, or is unsuitable for development due to its location or viability issues; and
- locating development where investment in growth or improvement would have most benefit for the amenity of local people and the vitality of the local economy.

Currently, the adopted West Lothian Local Plan (2009) identifies the site as HLv68 for housing, which states that the site could accommodate 25 housing units.

The Strategic Development Plan (SESPlan) Policy 5 – Housing, identifies that for the period from 2009 up to 2024, there is a requirement for sufficient housing land to be allocated so as to enable 107,545 houses to be built across the SESplan area, including on land which is currently committed for housing development. 22,300 of this required is required to be delivered within West Lothian.

It was the intention of West Lothian Council to deliver this requirement, through a number of Core Development Areas (CDA's) which would provide large scale housing delivery along with associated infrastructure and services. However, given the financial crash, these growth areas



were not as successful as hoped and did not deliver the housing figures as expected given the large scale of the developments. Small sites such as the Eucal centre can therefore provide a certain, short term boost to the housing land requirement with little large scale investment in infrastructure needed for other CDA locations.

The West Lothian Housing Land Audit (2014) identifies a total supply of 22,315 houses may be delivered across West Lothian between 2014 and 2019. This figure matches the SESplan requirement but it only offers a snap shot of the projected supply in any given year and therefore cannot be the single only source of projecting future housing land performance. Despite the total supply, around 7,953 of these sites are identified as constrained. With many of these likely to be slow or unlikely to be delivered for a number of reasons; the council should seek to find alternative sites to replace and enhance the supply. The retention of the housing allocation at Craigshill would provide certainty to the landowner as SPP emphasises the role of Development Plans (para 120) is to provide certainty. This approach would help Bizspace to formally market the site with a clear disposal strategy and enable genuinely interested housebuilding companies to deliver housing in future.

PAN 2/2010 identifies the criteria for effective housing supply. We have used the criteria to assess the effectiveness of the site, i.e. that it can be delivered. Guidelines state that it must be demonstrated that within the five-year period beyond the date of the audit the site can be developed for housing (i.e. residential units can be completed and available for occupation), and will be free of constraints on the following basis:

- land ownership: the site is in single ownership has no issue releasing it for development.
- physical: the site is free from constraints related to slope, aspect, flood risk, ground stability and vehicular access
- contamination: previous use has not resulted in contamination of the site
- marketability: the site can be developed in the period under consideration, with several house builders already showing a keen interest;
- infrastructure: the site is well connected to the existing roads network, in an established urban area, with existing public transport connections
- land use: housing is the sole preferred use of the land in planning terms with marketability point to housing being a realistic option.

Para 58 of PAN 2/2010 advises that Local Authorities should “*ensure that at all times sufficient effective land is available to meet the housing land requirement for at least the following 5 years.*” Housing development at Eucal would provide a sustainable and deliverable source of housing which is in high demand for this region. In keeping with the surroundings, development in this area would benefit from existing services and infrastructure and could be delivered without compromising the amenity of surrounding land uses.

Within a constant changing market, the projected figures generated in the HLA were compiled in 2012/13 when the market was less prosperous than at present. Given the recent improvements to the house market across West Lothian and the wider SESPlan area, it is important that a plentiful and effective allocation of sites is available for delivery.

### Conclusion

Bizspace objects to the non-allocation of land at Craigshill Livingston, for housing use and to the re-zoning of the site to no specific designation.



As the site is currently identified in the adopted Local Plan as Housing Proposal HLv 68, for a capacity of 25 units, the re-allocation of the site to the same use and indicative capacity in the replacement LDP would provide certainty to the new owners and enable it to extend the “soft marketing” recently conducted with interested housebuilders to advance the redevelopment of the site.

We have demonstrated the business space itself is no longer attractive to the weak market for this type of office stock and there are better, higher quality locations and office facilities elsewhere within a reasonably over-supplied office stock in West Lothian. The loss of this use at this site is therefore acceptable given other, better opportunities elsewhere.

We have demonstrated the demand for smaller, quicker deliverable housing sites of the scale, position and type suited to this site is good, as the housebuilding sector recovers. This is evident across all sizes and products – more specifically mid market products, and for affordable needs would be best suited to this location. The land is available and can be delivered in the life of the new plan.

LLR/bjg/73/57/1

21 February 2013

Steve McLucas  
Planning Officer  
Development Planning  
Planning and Economic Development  
West Lothian Council  
County Buildings  
High Street  
LINLITHGOW  
West Lothian  
EH49 7EZ

Dear Mr McLucas

**RE: BIZSPACE, EUCAL BUSINESS CENTRE, CRAIGSHILL ROAD, LIVINGSTON  
HOUSING ALLOCATION – WEST LOTHIAN LOCAL DEVELOPMENT PLAN**

I have been instructed by my client, Highcross Strategic Advisers Limited, to submit this letter in support of the reallocation of their site, Bizspace, Eucal Business Centre, Craigshill Road, Livingston from business to residential use.

This letter follows our recent discussions about the site on 14<sup>th</sup> December 2012, when you confirmed that the West Lothian Local Plan 2009, the statutory development plan, currently allocates the site under HLV69 'Former Laboratory, Craigshill for 25 housing units. Moreover, you confirmed that West Lothian Council are currently in the process of preparing a replacement plan, the West Lothian Local Development Plan (LDP), albeit that it is within the initial stages of development. You advised that a call for sites exercise had concluded and that no submission had been made for this site, but nonetheless, as a previously allocated site you intended to maintain the allocation of the site for housing. You advised that your Council would be grateful if further details could be provided regarding the site owner and their aspirations for the site prior to the publication of the Main Issues Report anticipated in March 2013.

I have subsequently discussed the site with my client, Highcross, and have been instructed to confirm that, as the owners of the site, they consider the re-allocation of the site from business use to housing to be desirable. Indeed, this meets with their current business aspirations to actively promote the redevelopment of the site to housing.

A layout proposal has not yet been prepared and therefore the allocation for 25 units would be suitable as an indicative capacity for the site and providing the actual capacity would be fully explored through a formal planning application.





As an existing brownfield site with operational businesses, there are no known constraints. The location has been suitable for the existing businesses that have demonstrated capacity for development through their connections to services and facilities. Furthermore, there are two current accesses into the site from the north and west which could be utilised by a future housing development.

We consider that, subject to detailed technical studies and the successful conclusion of a planning application, the site could be redeveloped to provide housing within the timeframe of the LDP (2012 – 2024).

Full contaminated land assessments and any mitigation identified would be undertaken to support a planning application for housing.

Given the scale of the site, it is anticipated that this site would be developed in one phase - either by the owner, or sold to a separate developer. There is limited new housing within the surrounding area and the allocation of the site could meet current demand, on a suitable brownfield site. Furthermore, the recent housing development to the rear of the fire station, adjacent the site, has demonstrated the demand for, and success of, new housing developments in this predominantly residential area.

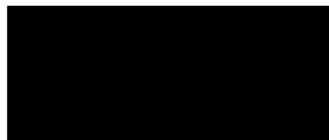
The re-allocation and redevelopment to housing would secure a new use on the site which has less potential to create a conflict of uses between business and residential use in close proximity.

In summary, our client's are actively seeking the redevelopment of the site to housing and consider the inclusion of this site as a housing site within the forthcoming LDP to be a suitable and effective allocation.

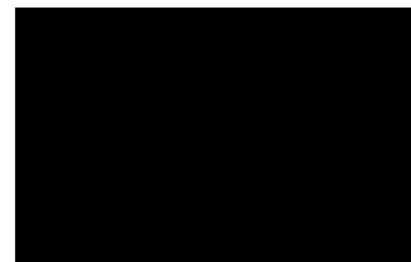
I trust this information satisfies your request for further information; however, should you require any additional details, please do not hesitate to contact me.

I would be grateful if you could add my details to your database of consultees for the forthcoming Local Development Plan consultations, so that I may engage with you, on my client's behalf, regarding this site.

Yours sincerely,



**Lisa Russell BSc (Hons) MRTPI**  
Senior Associate - Rapleys LLP





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## Eucal Business Centre, Craigshill Road, Livingston, EH54 5DT

Bizspace Livingston Eucal Business Centre comprises of business space for lease or commercial space for rent totaling 15,600 sq ft (1,449 sq m). The business centre complex with office units, workshops, light industrial units and storage units ranging from 100 sq ft (9.29 sq m) to 1,860 sq ft (172.79 sq m), offer flexible business space accommodation by using a single page licence agreement. The single story business premises is ideal workspace for companies seeking a central location for their business units which are close to the M8 corridor.

For customers requiring commercial space for rent or property leasing, the Livingston - Eucal Business Centre can provide a convenient workspace location on very flexible terms. There is also ample secure parking on site.

### Location

Bizspace Eucal Business Centre in Livingston is conveniently situated minutes from Junction 3 of the M8, 32 miles East of Glasgow and 16 miles West of Edinburgh, just off the A899. There is free secure parking on site and a good local bus service operates including to Bathgate and the West Lothian areas. Close to the business premises are Uphall Railway Station, Livingston North ; Livingston South Stations, Waverley Station and a very easy commute to Edinburgh, Edinburgh Airport and Glasgow.

### Accommodation

Unit 1 - Small start up office - 156 sq ft (14 sq m)  
Unit 5 - Small start up office - 218 sq ft (20 sq m)  
Unit 6 - Small start up office with built in storage - 218 sq ft (20 sq m)  
Unit 8a - Small start up office - 220 sq ft (20 sq m)  
Unit 10a - Internal space - 610 sq ft (57 sq m)  
Unit 110 - Small start up office - 164 sq ft (15 sq m)  
Unit 115 - 5/6 man office - 480 sq ft (44 sq m)  
Unit 117 - 5/6 man office - 481 sq ft (45 sq m)  
Unit 120 - 4/5 man office - 393 sq ft (37 sq m)  
Unit 121 - Workshop unit - 432 sq ft (40 sq m)  
Unit 123 - Small workshop/office space - 448 sq ft (42 sq m)  
Unit 125 - 5/6 man office - 504 sq ft (47 sq m)  
Unit 127 - Storage unit - 145 sq ft (13 sq m)  
BIZ 1 - Storage unit - 176 sq ft (16 sq m)  
BIZ 3 - Storage unit - 120 sq ft (11 sq m)  
BIZ 8 - Storage unit - 207 sq ft (19 sq m)  
BIZ 9 - Storage unit - 235 sq ft (21 sq m)

### Specification

- Price Includes: Licence Fee, Buildings Insurance and User Charge
- User Charge includes: Cleaning of communal areas, Security gates, maintenance of communal areas, on site management.
- Telecoms to be supplied and organised by Occupiers.
- Additional Charges: £5.00 per month Electricity Standing Charge, Gas Standing Charge, £5.00 per month Water Standing Charge.
- Utilities Re-Charged by Bizspace.
- Light Industrial/Office Waste Removal Provided.

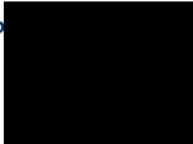


**Property Quote Price(s)**

Description	Sale type	Guide price	Price type
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**PROPERTY OPTIONS**

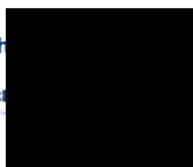
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OCT/15





## Appendix One: Employment Land Allocations

### Employment Sites: Local Plan Categorisation

The Use Classes (Scotland) Order [1997] defines the categories of land uses which contribute towards the employment land supply in West Lothian. Use Classes 4, 5 and 6 as specified in the Order are set out below:

Use Class 4, Business - Use-

- as an office, other than a use within class 2 (financial, professional and other services);
- for research and development of products or processes; or
- for any industrial process;

being a use which can be carried on in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Use Class 5, General Industrial - Use for the carrying on of an industrial process other than one falling within class 4 (business).

Use Class 6, Storage and Distribution - Use for storage or as a distribution centre.

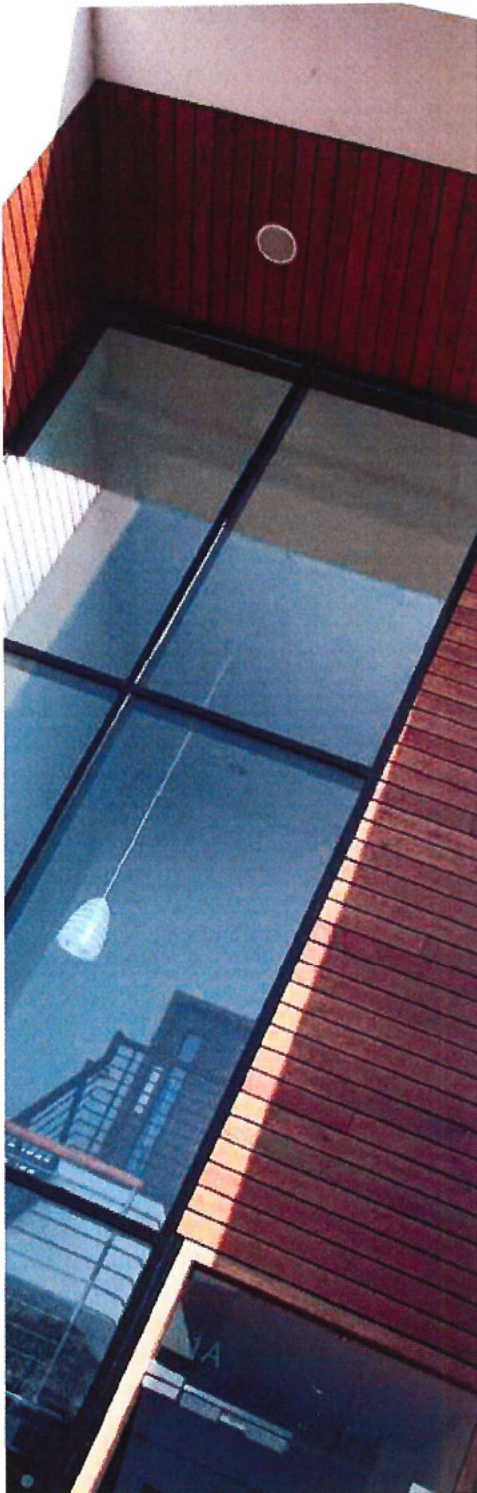
In allocating land for business and industrial uses falling within use classes 4, 5 and 6, of the Use Classes Order, LDP recognises the diverse range of activities that are carried out within these use classes, as well as providing a range of choice of locations for each activity. The LDP, through the accompanying policy framework set out in the plan, also accommodates the possibility that the nature of development will change within the plan period.

The LDP provides a detailed categorisation of the employment land supply and requirements to assist in site delivery. This categorisation recognises that different types of development falling within use classes 4, 5 and 6 will have different locational and environmental requirements – for example, a high quality office complex will have differing needs to those of a recycling centre. The categorisation used will assist businesses and developers to identify the sites most suited to their purposes, and will allow the council to steer proposals towards the most appropriate locations.

The categorisation of sites is as follows:

#### Core categories

- A. General needs industrial – these tend to be the older, more traditional industrial estates, or new allocations for a similar purpose, where the broadest range of use classes 4, 5 and 6 would be acceptable. The full range of industrial uses can be accommodated, subject to the appropriate controls on those which may have an impact on local amenity, i.e. potentially hazardous or other bad neighbour uses, which may raise local environmental issues and impact on neighbouring businesses. It is unlikely that there will be restrictions on open storage, or small scale distribution uses, subject to traffic generation.
- B. High amenity use classes 4, 5 and 6 – this category is typified by the newer industrial parks, where a broad range of activity is still acceptable, but where a better quality of development will be required and where, for example, open storage is likely to be unacceptable. It is anticipated that development will reflect modern design standards and materials, with a greater control over ancillary areas (e.g. parking and vehicle circulation) and the location and visibility of plant rooms etc., with a higher quality of on-site landscaping.





- C. High amenity use classes 4 and 5 – West Lothian, and Livingston in particular, has a history of development for industrial and business uses in the highest quality settings. For example, Kirkton Campus is characterised by very low densities; modern or innovative design using high quality materials; and is in a highly landscaped setting. Careful control has been exercised over the height of buildings and the layout of individual sites to ensure that they are unobtrusive. Development for class 6 (storage and distribution), which may require significant eaves height and generate a high level of heavy vehicle traffic are precluded.
- D. Office only – while recognising the flexibility that is afforded by use class 4, allowing development for office, research and development, as well as light industrial uses, in the same locality, the LDP also recognises that in certain locations development for industrial use may still be inappropriate. The inclusion of this category is therefore intended to ensure that development will take place exclusively for office purposes. Sites included in this category will include the flagship Alba Campus (which is normally restricted to class 4 uses), as well as established office parks, such as Almondvale and Fairways, all in Livingston, protecting the status and quality of these office parks.

### Specialist categories

- E. Use class 4 and ancillary uses – the LDP recognises the need for the provision of service activities within or adjacent to industrial and office parks, to cater for demand from those working in the vicinity. Accordingly a small number of sites have been allocated for a class 4 use, or ancillary activities, such as a crèche, leisure centre, hotel or restaurant, that will complement the local business use.
- F. Use class 6 only – recent trends in distribution and logistics have seen a change in the scale and nature of development associated with those activities. In response West Lothian has allocated a specialist site dedicated to development for that purpose, at J4M8 to the south west of Bathgate. Ready access to the M8 makes this location ideal for large scale use class 6 development, of a high standard of design, in a well landscaped setting.
- G. Single user sites – Scottish Planning Policy (2014) no longer requires national safeguarding of single user sites.) However, there are some sites in West Lothian where a single user expansion to an existing facility is desirable to safeguard the opportunity of a successful single user employer to locate or expand (see H below).
- H. Single user expansion – This category reflects the existence of additional development land that would facilitate the future expansion of these major employers, but which would not be suitable for alternative business or industrial development.
- I. Open Storage only – it is understood that the ground conditions in certain areas, which have been subject to land rehabilitation and/or shallow mine workings, will preclude the construction of buildings. Accordingly the allocation of sites in this category reflects the suitability of these sites for open storage only.
- J. Enterprise Area Status –. The West Lothian Enterprise Area comprises four individual sites across Broxburn and Livingston, supporting food and drink manufacturing opportunities in West Lothian. In addition to existing business support provided through Business Gateway and Scottish Enterprise, companies setting up in the Enterprise Area site will benefit from:
- Business Rates Relief
  - Streamlined planning procedures
  - International marketing and support from SDI
  - Skills and training support from SDS
  - High speed broadband connections in line with the vision outlined in Scotland's Digital Future – Infrastructure Action Plan.
- K. Strategic employment opportunity – a site that has the potential in the medium to longer term for a strategic employment opportunity for a single user, likely to be a high quality class 4 development.

**NOTE:** The requirements set out in this Appendix are site specific. Requirements arising from any relevant Supplementary Guidance (SG) produced by the council will also apply.







## DEVELOPMENT MANAGEMENT COMMITTEE

### Report by Development Management Manager

#### 1 TITLE OF REPORT

Outcome of the appeal against conditions applied to planning permission 0586/FUL/09, Unit 101 Eucal Business Centre, Craigshill, Livingston.

#### 2 DETAILS

<b>Reference no.</b>	0568/FUL/09 P/PPA/400/2008	<b>Owner of site</b>	Bizspace, Livingston
<b>Applicant</b>	[REDACTED]	<b>Ward &amp; local members</b>	<b>East Livingston and East Calder</b>  F Anderson W Dunn C John D King
<b>Case officer</b>	[REDACTED]	<b>Contact details</b>	[REDACTED]

**Reason for referral to Development Management Committee:** To advise members about the current status of an appeal against conditions imposed on a planning permission.

#### 3 RECOMMENDATION

Members are asked to note the terms of the report and consider whether any further comment should be made to the Department of Planning and Environmental Appeals.

#### 4 PLANNING HISTORY

- 4.1 Members will recall the above planning application for the change of use of a vacant unit within the Eucal Business Centre, Craigshill from business use (class 4) to a shop (class 1).
- 4.2 It was recommended that the application was refused planning permission on road safety grounds and the application was called to Committee by a local member. The Development Management Committee subsequently granted permission, contrary to recommendation, requiring a condition on the hours of trading, to alleviate parking concerns at the site.



- 4.3 The decision notice was duly issued containing four conditions. Two of the conditions were the council's standard conditions relating to the validity of the consent and the need to comply with submitted plans. A third condition for the avoidance of doubt reflected the applicant's stated intention of the site being used for wholesale purposes only, despite applying for a class1 retail use. The fourth condition, in accordance with Committee's wishes, restricted the hours of operation.
- 4.4 Following the release of the decision notice, a copy of which is attached to this report, the applicant appealed the two latter conditions imposed.

## **5 THE REPORTER'S APPROACH TO THE CASE**

- 5.1 An appeal site visit was carried out on 12 March 2010 by the DPEA reporter, and an 'intentions letter' dated 25 March 2010 has been received.
- 5.2 In the 'intentions letter' the reporter advises that he proposes to dismiss the appeal against the terms of the two conditions and to direct that the permission issued by the council shall be of no effect. In other words, the consent would cease to have effect and the lawful use of the property would revert to business use.
- 5.3 Section 48(1) of the Town and Country Planning (Scotland) Order 1997 (as amended) is the legal basis for this. This section of the Act relates to the determination of appeals and permits Ministers to allow or dismiss the appeal, or reverse or vary any part of the decision of the planning authority, whether the appeal relates to that part of it or not. This, in effect, allows the reporter to deal with the application as if it had been made to him in the first instance.
- 5.4 Section 48(3) of the Act states that if any part of the council's decision is to be reversed or varied, to which the appeal does not relate, notice shall be given to both the planning authority and the appellant. Each party then has an opportunity to make representations on the reporter's proposal within 28 days of his provisional decision. This 28-day period expires on 21 April 2010; any representations must be with the reporter by this date.
- 5.5 The reporter in proposing to direct that planning permission 0568/FUL/09 shall be of no effect will mean that the premises will have to revert to a class 4 business use; to continue to operate, the premises would be a breach of planning control and could be subject to enforcement action.
- 5.6 In his assessment of the case the reporter has concluded that the appeal site is at variance with the development plan, although this conflict does not deny this unit some beneficial business use. He also takes the view that the 'impossibility of satisfactorily controlling retail activity' through planning conditions is of main concern, and as such, there is justification to refuse rather than a review of the conditions imposed by the council.
- 5.7 The gist of the reporter's approach is that planning conditions restricting the use to wholesale purposes, which otherwise reflect the applicant's aspirations for the premises, fail to meet the tests of Circular 4/1998 'The Use of Conditions in Planning Permissions'. Similarly, alternative conditions to overcome road safety issues are deemed



West Lothian  
Council

## DEVELOPMENT MANAGEMENT COMMITTEE

Report by Development Management Manager

### 1 DESCRIPTION AND LOCATION

Change of use (class 4) business unit to (class 1) shop at Unit 101 Eucal Business Centre, Craigshill, Livingston.

### 2 DETAILS

Reference no.	0568/FUL/09	Owner of site	Bizspace Livingston
Applicant	[REDACTED]	Ward & local members	East Livingston and East Calder F Anderson W Dunn C John D King
Case officer	[REDACTED]	Contact details	[REDACTED]

Reason for referral to Development Management Committee: Called to committee by Councillor Frank Anderson

### 3 RECOMMENDATION

Refuse planning permission

### 4 DESCRIPTION OF THE PROPOSAL AND PLANNING HISTORY

- 4.1 The proposal was initially to change the use of a vacant unit within the Eucal Business Centre from business (class 4) to a shop (class 1). Following further discussions with the applicant during the processing of the application, that proposal has been revised. Rather than provide a 'class 1' shop, which by definition is available to visiting members of the public, the unit would be a restricted wholesale outlet in which goods will be available for trade customers only. Such a sui-geris use could be regulated by planning conditions and thus overcome concerns about the intensity of use that would otherwise occur.
- 4.2 The business centre is split level with a service yard and parking access taken at the upper level from Craigshill Road and parking to the lower level from Craigshill West Road. Unit 101 is accessed from the upper level service yard.



- 4.3 The upper level contains a variety of businesses including a textile supplies company, taxi business, motorcycle repairs and a catering business.
- 4.4 The Eucal Business Centre was originally constructed as a government agency building for road and transport research. Two planning applications were submitted for the site by the Secretary of State for Transport in 1996. Planning application 0516/FUL/96, change of use to business (class 4) and 0519/P/96, outline planning permission for residential/flatted development, were both granted planning permission in July 1996.
- 4.5 The building has been operating as a business centre since that time and the outline permission for residential use expired in 1999. There have been no other planning applications submitted for a change of use to units at the business centre during this time.

## 5 PLANNING POLICY ASSESSMENT

Plan	Policy	Assessment	Conform?
ELSP	HOU1 (Existing housing sites)	The existing housing sites identified in the Housing Land Audit 2001 will be supported along with emerging local plan sites. The site is thus allocated for housing in the West Lothian Local Plan. The site continues to operate as a mixed business unit.	Yes
West Lothian Local Plan (WLLP)	TC1 (The sequential requirement)	The site lies in an urban area, albeit within a commercial business setting. The applicant has agreed a wholesale use rather than class 1 'shop' use, to limit the movement of the public to the site and cater for trade sales instead.	Yes

Also of relevance is Scottish Planning Policy guidance SPP8, Town Centres and Retailing.

## 6 REPRESENTATIONS

One letter of representation has been submitted by Angela Constance MSP, requesting the application is examined with a view to identifying possible solutions to the problems raised by Transportation. Transportation has commented on the initial planning application and reviewed additional information submitted by the applicant.

## 7 CONSULTATIONS

This is a summary of the consultations; the full documents are contained in the application file.

Consultee	Objection?	Comments	Planning Response
Transportation	Yes	Transportation has provided a comprehensive comment on additional supporting information	Noted – Comments copied in full as attachment





Consultee	Objection?	Comments	Planning Response
		<p>provided by the applicant and in terms of the wholesale use of the site, and object to both potential uses, on the grounds that there are no footpath links into the premises, there is insufficient parking within the business centre to accommodate the existing and proposed uses and based on the number of visitors expected. With there being no footpath links on the public road or into the site, pedestrian safety is an issue, particularly during the hours of darkness. The granting of a change of use for this unit would set a precedent as there are no other similar retail operations within the business centre.</p>	
Development Planning	No	<p>There are grounds for setting aside the terms of the WLLP in this instance. However, this is on the basis that the proposal can be controlled to prevent use to a class 1 retail shop.</p> <p>The reasons for setting aside the WLLP are that there appears little prospect in bringing the site forward for housing as the previous consent for this use has lapsed and there has been a change in ownership with the new owners successfully promoting the site for small business units. Housing could only come forward if all businesses were to cease operating which appears unlikely in the current circumstances.</p>	Noted – Condition can be applied restricting goods and use of the premises.

## 8 ASSESSMENT

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.



### **Development Plan: Edinburgh and the Lothians Structure Plan**

- 8.2 The site is allocated for residential use however, there appears little prospect in bringing the site forward for housing as the previous consent for this use has lapsed. The site is being operated as an active business unit for small businesses. Housing could only come forward if all businesses were to cease operating, which appears unlikely in the current circumstances.

### **West Lothian Local Plan**

- 8.3 The proposals, as amended to sui-generis wholesale use, are acceptable in terms of policy TC1 as this policy relates to class 1 shop uses and the proposals will now be restricted to trade sales.
- 8.4 The site lies within an area allocated for residential use in the WLLP. Due to the ongoing business nature of the site and the limited prospect of bringing this site forward for development in the foreseeable future, this aspect of the local plan can be set aside in this instance.

### **Other Material Considerations**

- 8.5 Objections raised by Transportation in relation to the level of parking available at the Eucal Business Centre to cater for this and the other businesses, as well as the lack of pedestrian footpath links to the site, are of material consideration in this case.

## **9 CONCLUSION AND RECOMMENDATION**

- 9.1 The operators of the business centre are happy to rent the premises to the applicant for the proposed use. With there being variety of uses at the business centre, one of which is a catering company, a restricted wholesale use would not be out of character with the uses in the business centre.
- 9.2 Whilst the site is allocated for residential use in the WLLP, this allocation is based on an expired 1996 consent. This consent was given at the same time permission was granted, again to the Secretary of State, for the use of the government facility for business use. Clearly at the time in 1996 when these permissions were issued, the transport research laboratory was surplus to requirements as a government operated facility and options for the use of the site were being kept open.
- 9.3 The applicant has agreed that he would not operate a class 1 shop as there are issues with pedestrian access to the site, rather the premises would be operated as a wholesale business for speciality meats and other asian foods.
- 9.4 Whilst there is general planning support for the applicant to find a unit appropriate for his proposed business within West Lothian, the comments from Transportation are clear in that the level of parking available for the other existing uses and for the proposed use falls short. Also, the lack of pedestrian access to the unit from the district road would result in customers who choose to walk to the site being in conflict with road traffic.



- 9.5 Although the use from a wholesale perspective may not conflict with other existing uses, access and parking does not meet the required Transportation standards. The application is therefore recommended for refusal on these grounds alone.
- 9.6 A precedent would be set for this type of use in this location. It would be difficult to resist other shop/wholesale uses within the site and as a result, there may be overspill parking onto the district road, creating road safety issues.
- 9.7 The lack of pedestrian links to the unit would encourage customers visiting on foot to walk on the Craigshill Road, putting pedestrians at risk from road traffic.

## **10 ATTACHMENTS**

- Location plan
- Member request form
- Additional information from applicant
- Response from Transportation
- Letters of representation

**CHRIS NORMAN**  
**Development Management Manager**

**Date:** 18 November 2009





inappropriate in the context of Craigshill Road, a modern distributor road opposite a fire station.

- 5.8 The decision by Committee to grant planning permission was taken contrary to officer recommendation which concluded that the proposal was unacceptable in road safety terms. It is for the applicant to make a representation to the DPEA in terms of the reporter's decision but it is also open to the council to do so.

## **6 SUMMARY AND CONCLUSIONS**

- 6.1 Clearly there is tension between the committee's views on the use of the site and officer's recommendation on road safety grounds. In this case, members can choose to make representation to DPEA on the reporter's 'intentions letter' or resolve to leave that to the appellant.
- 6.2 It is of course open to the aggrieved appellant to seek professional advice to counter the views of the reporter.

## **7 ATTACHMENTS**

- Committee Report of 18 November 2009
- Committee decision
- Decision Notice
- Reporter's 'intentions letter'

  
CHRIS NORMAN  
Development Management Manager

Date: 7 April 2010

# Rapleys

Eucal Business Park - Site Plan

