

REPORT TO: Planning Committee
MEETING DATE: Tuesday 5 March 2013
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

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Application No. **12/00896/AMM**

Proposal Approval of Matters Specified in Conditions of Planning Permission in Principle 11/00729/PPM - Erection of a Class 1 retail store, petrol filling station, reconfiguration of existing commerce park, car park, services and associated works

Location **Gateside West
West Road
Haddington
East Lothian
EH41 3ST**

Applicant Sainsbury's Supermarkets Ltd

Per HolderPlanning

Ward 6

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

Although this application is for the approval of matters specified in conditions of planning permission in principle 11/00729/OUT it has to be determined as a major development type application because the area of the application site is greater than 2 hectares. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

The application site consists of 9.1 hectares of land at the western edge of Haddington. It includes the Gateside Commerce Park and the land of the former Oaktree Petrol Filling Station. That use ceased a number of years ago and the land of the former Petrol Filling Station is vacant to use. The application site also includes a tree belt that is between the Gateside Commerce Park and the vacant land of the former Oaktree Petrol Filling Station and the length of the B6471 road that is immediately to the south of the Gateside Commerce Park and the vacant land of the former Oaktree Petrol Filling Station.

The application site is bounded to the north by the A199 road and by a length of the Haddington to Longniddry railway walk, to the west by the Oaktree roundabout junction,

and to the south by agricultural land and by the residential property known as Gateside Cottage. The eastern part of the agricultural land to the south of the application site is allocated for a mixed use development of 750 houses, social and community facilities and associated infrastructure by Proposal H3 (Letham Mains) of the adopted East Lothian Local Plan 2008. To the east of the application site is a narrow road, beyond which is a field (known as Gateside East).

In February 2012 planning permission in principle (Ref: 11/00729/PPM) was granted for the development of a Class 1 retail store and for a petrol filling station on the western part of the application site, for the reconfiguration of the existing car park of the Gateside Commerce Park and for associated works.

This further application seeks approval of matters specified in conditions of planning permission in principle 11/00729/PPM for the details of the siting, design and external appearance of the retail store and petrol filling station, the means of access to it, the landscaping of the site and of other principles of development.

A condition of planning permission in principle 11/00729/PPM restricts the gross floor area of the retail store to no greater than 3,700 square metres and the net sales floor area to no greater than 2,355 square metres. Of the net sales floor area, the condition states that no more than 471 square metres of it shall be used for the sale of comparison goods.

In detail the proposed retail store would have a gross floor area of 3,700 square metres and a total net sales area of 2,355 square metres. Of the total net sales area, no more than 471 square metres of it would be used for the sale of comparison goods.

The proposed retail store would have a broadly square footprint and would be positioned some 18 metres to the west of the westernmost of the existing business and industrial units of the Gateside Commerce Park. The front elevation of the proposed retail store building would face southwards across part of its car park towards the B6471 road. A total of 279 car parking spaces would be provided within the application site to serve the retail store, in positions to the south and southwest of the proposed retail store building. A petrol filling station would be located on the part of the southern edge of the western part of the site. A service yard for the retail store would be located immediately to the north (rear) of the retail store building.

Vehicular access for customers to the new retail store and petrol filling station would be taken from the B6471 road via a new traffic signal junction positioned some 90 metres to the east of the Oaktree roundabout junction. A new access road, which would be accessed from the B6471 road at a position some 290 metres to the east of the Oaktree roundabout junction, would be formed within the application site between the new retail store and the westernmost of the existing business and industrial units within the Gateside Commerce Park. This road would be used as the access for service delivery vehicles as well as the access for the business and industrial units on the western part of the Gateside Commerce Park. To compensate for the eastern part of the retail store development being positioned on some of the existing car parking of the existing Commerce Park car parks and to enable continuing access to the service yards of the Commerce Park new car parks and a reconfigured service yard are to be provided on site for the Commerce Park, which otherwise would be retained in its existing form. A new footpath would be formed to the north east of the proposed retail store to provide a pedestrian link between it and the Haddington to Longniddry railway walk. It is also proposed to hard surface the length of the railway walk between the proposed new access from it to the retail store and Gateside Road to the northeast, and to provide street lighting on the greater length of it between the proposed new access to the retail store and Alderston Road, beyond Gateside Road.

Most of the trees along the southern edge of the application site, adjacent to the B6471 public road, as well as a large part of the existing tree belt that is between the Gateside Commerce Park and the vacant land of the former Oaktree Petrol Filling Station would be removed to facilitate the retail development of the application site. It is however proposed that tree planting would be retained along the south side of the A199 road (northern edge of the site) and that new areas of tree planting would be created in the western corner of the application site and along the northern edge of the B6471 road.

Planning permission in principle 11/00729/PPM stipulates the need for an assessment of any noise impacts that might arise as a consequence of the development and that this should form part of the subsequent approval of matters specified in conditions application. A noise impact assessment is submitted with this application.

Subsequent to the application having been registered the applicant has submitted a design and access statement explaining the design concept of the development as detailed in this application.

Amended plans have been submitted showing:

- (i) the access controls that would be implemented to ensure that vehicles and shopping trolleys are not taken onto the Haddington-Longniddry railway walk;
- (ii) that no more than 471 square metres of the net floorspace of the retail store shall be used for the sale of comparison goods;
- (iii) revisions to the configuration of the vehicular access for customers to the new retail store and petrol filling station; and
- (iv) further details of the proposed scheme of landscaping for the site.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Policy ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DP1 (Landscape and Streetscape Character), DP2 (Design), DP14 (Trees on or adjacent to Development Sites), DP20 (Pedestrians and Cyclists), DP22 (Private Parking), DP23 (Waste Minimisation, Separation, Collection and Recycling) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

A total of 6 written representations have been received in respect of this application, all of which make objection to the proposed development.

A copy of each written representation is contained in a shared electronic folder to which all Members of the Committee have had access.

Four of the six written representations are from local residents of Knowesley Park. They object to the height of the lighting columns proposed for the section of the railway walk between the proposed new access from it to the retail store and Alderston Road, and the resultant lighting pollution from them. They suggest that lighting bollards or lower lighting

columns should be used instead. One of the local residents also raises concerns over the probable consequences for trade in existing Haddington shops.

One of the other written representations is from Haddington and District Amenity Society (HADAS). Their main grounds of objection are summarised as follows:

- * Taking access from the B6471 road would open up extensive views into the site and compromise the frontage (southern) part of the site. Further consideration should be given to whether access to the public could be taken from the A199 road;
- * The effect of ground level changes would mean that a very hard built form would predominate in views of the site;
- * The design of the building would be compromised by signage on the roof of the building;
- * The proposed landscaping is woefully inadequate; and
- * The proposed removal of trees at the western end of the site should be resisted.

The other written representation objects to access proposals for the retail store as it will generate a huge amount of traffic and disruption on the B6471 road. Moreover, it would likely increase traffic levels on the High Street, as residents from the eastern part of Haddington would seek to travel to the store using the most 'natural' direct route. She considers that access to the retail store should instead be taken from the A199 road.

Haddington Area Community Council were consulted on this application but have not provided any comments on it.

This application seeks approval of matters specified in conditions of planning permission in principle 11/00729/PPM for the details of the retail store, petrol filling station, and other associated works. Approval is not sought through this application for the display of signage. Thus, the concern raised by HADAS regarding signage is not a material consideration in the determination of this application. If approval of matters specified in conditions is granted for the details of the retail store and petrol filling station, then it is likely that advertisement consent would be sought at some time in the future for the display of signage on the retail store building and within the application site. It would be through the determination of that subsequent application for the Council as Planning Authority to decide whether or not the proposed signage would be acceptable.

By the grant of planning permission in principle 11/00729/PPM approval has been given for the principle of a retail store and petrol filling station on the application site. There can therefore be no objection in principle to such use of the site.

In detail the proposed retail store would have a gross floor area of 3,700 square metres and a total net sales area of 2,355 square metres. Of the total net sales area, no more than 471 square metres of it would be used for the sale of comparison goods, all as stipulated as a principle of development of the site by planning permission in principle 11/00729/PPM.

In the consideration of this application the requirement is to determine whether or not the proposed details of the retail store development of the site are consistent with the principles of development set for such development by planning permission in principle 11/00729/PPM and whether or not the development would be appropriate to its place.

The main built element of the development, the proposed retail store building, is principally designed for the functionality of its intended use. It would partly be seen in relation to the existing business and industrial buildings to the east of the application site. In this regard, the retail store building would not appear as an isolated feature in its landscape setting. The petrol filling station would be positioned adjacent to the customer vehicular access from the B6471 and between that road and part of the retail store car park. Due to its roadside location the petrol filling station would be prominent in public views from the B6471 road. However a facility of this nature, due to the functionality of its use has to have a distinctive design form that presents little opportunity for variation and is a facility that normally is positioned adjacent to or in close proximity to a roadside. In this regard and in its relationship with the retail store it would not appear as an alien or incongruous feature in its proposed location.

The retail store building would have a relatively low profile, with the ridgeline of the main shallow pitched roof of the building being 6 metres above ground level. With the timber cladding of parts of its walls and extensive areas of glazing, particularly its south frontage, the proposed retail store building would have a somewhat contemporary appearance that would add visual interest to the character and appearance of the area. It would be of a size, scale and design in keeping with the existing buildings of the Gateside Commerce Park and thus appropriate to its location. It would not appear as an incongruous feature in its setting or as an over development of the site. In their positional relationships with the retail store building, neither would the petrol filling station, car park and other associated development of the site.

The Design and Access Statement informs that to facilitate the proposed development there is a requirement to raise the ground levels on which the retail store and the car park would be built. Section drawings submitted with the application show that the ground level on which the retail store and car park would be built would be some 2 metres higher than the ground level of the westernmost of the existing buildings of the Gateside Commerce Park and of the proposed access road that would be formed between them and the proposed retail store building. However given the relatively low profile of the proposed retail store building and the proposed landscaping of the site, the proposed increase in ground levels would not result in either the proposed retail store building or the car park appearing as unacceptably elevated features in their setting. The applicant has confirmed that it would be necessary to erect retaining walls along the eastern boundary of the proposed car park, along the southern end of the proposed recycling area, and along two lengths of the southern end of the site, adjacent to two small areas of car parking. The applicant is unable at this stage to confirm the height of all of the proposed retaining walls. Thus, it would be prudent to require that details of any retaining walls should be submitted to and approved in writing by the Planning Authority in order to ensure that they would not appear as harmfully prominent features of the retail store development. This planning control can be secured by a condition imposed on the approval of matters specified in conditions for the proposed retail store development.

By virtue of their distance from nearby residential properties, the proposed retail store building and petrol filling station would not give rise to harmful overlooking or overshadowing of any residential property.

The Council's Environmental Protection Manager has confirmed that the noise impact assessment submitted with this application is acceptable in demonstrating that use of the proposed retail store development would not have a harmful impact on the amenity of the area.

Consequently, the Environmental Protection Manager raises no objection to the details of the proposed retail development but recommends that noise emanating from any

proposed plant and/ or equipment should not exceed Noise Rating curve NR20 at any octave band when measured within any nearby residential property with windows open at least 50 millimetres. This planning control can be secured by a condition imposed on the approval of matters specified in conditions for the proposed retail store development. Subject to this planning control use of the proposed retail store development would not be harmful to the amenity of nearby residential properties.

On these considerations of layout, design, and amenity, the details of the proposed retail store development are consistent with Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DP1 and DP2 of the adopted East Lothian Local Plan 2008.

The Council's Policy & Projects Manager is generally content with the landscape proposals for the site, which have been revised by the applicant since they were originally submitted to further reduce the impact of the proposed retail store development on the visual amenity of the area. These include the retention of existing trees along part of the northern boundary of the site. He advises that the applicant has taken on board most of his earlier comments with regard to amending the landscape treatment of the proposed site in order to improve the integration of the proposed development into its surroundings. This includes enhancing the landscape treatment on the north-western edge of the site. He raises no objection to the detailed landscaping proposals, although he does suggest that the proposed tree planting within the car park should be protected with tree guards. This requirement can be secured by a condition imposed on the approval of matters specified in conditions for the proposed retail store development. On these landscaping considerations, the proposed development is consistent with Policies DP1 and DP14 of the adopted East Lothian Local Plan 2008.

The principles of the means of accessing the retail store development are already decided by the Council through the grant of planning permission in principle 11/00729/PPM. These are that: (i) vehicular access to the new retail store and petrol filling station for customers should be taken directly from the B6471 road via a new traffic signal junction positioned some 90 metres to the east of the Oaktree roundabout junction; (ii) a new service access road be taken directly from the B6471 road at a position some 290 metres to the east of the Oaktree roundabout junction, not only to serve the proposed retail store but also the continuing use of the Gateside Commerce Park; and (iii) the provision of a pedestrian crossing between the site and the bus stop on the southern side of the B6471 road.

The detailed access arrangements are in accordance with these established principles of the means of accessing the retail store development.

The Council's Transportation service raises no objection to the detailing of the access arrangements. They do however make recommendations on the standards of provision.

They recommend that:

(i) a "Toucan" type signal controlled crossing be provided on the B6471 Road some 115 metres to the east of the centre of the junction of the B6471 road and the proposed new customer service road, to tie in with the bus stop on the southern side of the B6471 road;

(ii) a visibility splay of 4.5 metres by 90 metres should be provided and maintained at the junction of the proposed service access road and the B6471 road, so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface. They further recommend that a visibility splay of 2.5 metres by 70 metres should be provided and maintained at the junction of the proposed customer access road and the

B6471 road, so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface;

(iii) Stage 2, 3 and 4 Safety Audits for the proposed development should be submitted to and approved in advance by the Planning Authority, and that a maintenance plan for the proposed service access road should also be submitted to and approved in advance by the Planning Authority;

(iv) the B6471 road should be repaired and resurfaced;

(v) wheel washing facilities are provided during the construction phase of the retail store development.

All of these requirements can reasonably be made conditions of the approval of matters specified in conditions for the proposed retail store development

The Transportation service are satisfied with the number and layout of car parking spaces proposed for the retail store development.

Cycle parking should also be provided within the site at a rate of 1 space for customers plus one for employees per 300 square metres gross floor area. This requirement can reasonably be secured by a condition of the approval of matters specified in conditions for the proposed retail store development.

With regard to public transport, Transportation recommend that details of the bus shelters to be provided at the bus stops to be formed on both sides of the B6471 road should be submitted to and approved in advance by the Planning Authority. Again this requirement can reasonably be made a condition of the approval of matters specified in conditions for the proposed retail store development.

Transport Scotland raise no objection to the details of the proposed retail store development.

Another principle of development set by the grant of planning permission in principle 11/00729/PPM is that the Haddington to Longniddry railway walk be upgraded, to ensure its use as another adequate means of pedestrian access to and from the retail store.

The details of the upgrading works proposed in this application consist of the hard surfacing of the length of the railway walk between its proposed new access to the retail store and Gateside Road, and the provision of street lighting on it between the proposed new access from it to the retail store and Alderston Road to the northeast. The Council's Landscape and Countryside Management Manager is satisfied with the proposed upgrading works to that length of the railway walk. She does however recommend that details of the hard surfacing should be submitted to and approved by the Planning Authority prior to it being done. Moreover, to ensure that the roots of the adjacent trees are not damaged by the cabling for the proposed lighting, full details of the means by which the cables are to be laid should also be submitted to and approved in advance by the Planning Authority. These recommendations can be secured by conditions of the approval of matters specified in conditions for the proposed retail store development. Subject to this planning control, it would be possible to upgrade the railway walk in a manner that neither harms the character of the walk nor would result in significant damage to tree roots.

The street lighting proposed for the railway walk would consist of 5 metres high lighting columns each with a lighting unit of a flat glass lantern type. The Council's Street Lighting Officer advises that this type of lighting is designed to project all the light onto the ground

and to minimise the upward light output ratio to a minimum, thus minimising any intrusive light. The applicant has submitted a photometry drawing to show the spread and intensity of light from the proposed lighting. From his assessment of the submitted information, the Street Lighting Officer is satisfied that the proposed lighting of the railway walk would not result in any unacceptable light pollution of any neighbouring residential property. He further advises that the installation of lighting bollards is not to be recommended, as they do not offer any light control and could result in light pollution to neighbouring residential properties, as they omit light from the side and not downwards.

Condition 2 of planning permission in principle 11/00729/PPM requires, amongst other things, that the applicants submit details of means of access control to ensure that vehicles and shopping trolleys are not taken onto the Haddington-Longniddry railway walk. The details submitted with this application show that bollards would be installed on the northern end of the proposed new footpath link between the retail store and the railway walk. Additionally, customer trolleys would be fitted with a monetary deposit release mechanism to discourage the removal of them from the confines of the retail store car park. The Landscape and Countryside Management Manager is satisfied that these access control measures would be sufficient to ensure that vehicles and shopping trolleys are not taken onto the railway walk.

On these foregoing transportation and other access considerations the submitted details of the proposed retail store development are consistent with Policies DP14, DP20, DP22 and T2 of the adopted East Lothian Local Plan 2008.

The Scottish Environment Protection Agency raise no objection to the proposed retail development. They advise that foul drainage from the proposed petrol filling station should be directed to the public foul sewer. Specification for the surface water drainage systems must comply with the General Binding Rules of The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) and the SUDS Manual (C697).

Scottish Water were consulted on this application but have not provided any comments on it.

The applicants are proposing to provide recycling facilities at a location immediately to the east of the proposed petrol filling station. The Council's Waste Services Manager raises no objection to the proposed development, being satisfied that the proposed facilities would be of acceptable size and layout. On this consideration the proposed retail development is consistent with Policy DP23 of the adopted East Lothian Local Plan 2008.

RECOMMENDATION

That approval of matters specified in conditions for the proposed retail store development be granted subject to the following conditions:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 A schedule of materials and finishes and samples of such finishes for all components of the development, including ground surfaces and boundary enclosures shall be submitted to and approved by the Planning Authority prior to the material and finishes being used in the development. The materials and finishes used in the development shall accord with the schedule and samples of them so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area.

- 3 All planting, seeding or turfing comprised in the approved details of landscaping, shown on docketed drawing numbers PL(2)14 Rev C and PL(2)15 Rev C, shall be carried out in the first planting and seeding season following the retail store building opening for trade or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

The approved scheme of landscaping shall not include any spiny or thorny species such as Berberis or Pyracantha.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area, and to prevent litter from getting caught on spiny or thorny species of shrubs, again in the interests of the amenity of the area.

- 4 The trees to be planted within the customer car park shall be protected with tree guards. Prior to their use in the development, details of the tree guards shall be submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To protect the trees within the customer car park in order to enhance the appearance of the development in the interests of the amenity of the area.

- 5 Prior to the commencement of any works for the upgrading of the railway walk, full details of the means by which the street lighting cables are to be laid shall be submitted to and approved in advance by the Planning Authority. The details to be submitted shall seek to minimise their impact on the trees adjacent to the railway walk. The works for the upgrading of the footpath shall thereafter be carried out in strict accordance with the details so approved.

Reason:

To ensure that a safe and convenient pedestrian access to and from the store is provided along the entire length of the railway walk from Alderston Road to the retail store, in the interests of highway safety and to minimise the impact on the trees adjacent to the railway walk.

- 6 Prior to the commencement of any works for the upgrading of the railway walk, full details of the hard surfacing of the section of the railway walk between its proposed new access to the retail store and Gateside Road shall be submitted to and approved in advance by the Planning Authority. The details to be submitted shall ensure that the hard surfacing does not significantly increase that section of the railway walk. The works for the upgrading of the footpath shall thereafter be carried out in strict accordance with the details so approved.

Reason:

To ensure that the hard surfacing does not significantly increase the height of that section of the railway walk, in the interests of the visual amenity of the area.

- 7 Noise emanating from any proposed plant and/ or equipment shall not exceed noise rating curve NR20 at any octave band frequency when measured in any neighbouring residential building. Noise measurements shall be taken within the building with windows open at least 50mm.

Reason:

In the interests of protecting the amenity of nearby properties.

- 8 Prior to their use in the development, full details of any retaining walls shall be submitted to and approved in advance by the Planning Authority. Development of any retaining walls shall thereafter be carried out in strict accordance with the details so approved.

Reason:

To safeguard the visual amenity of the area.

- 9 Prior to the retail store and petrol filling station opening for trade, the proposed site access roads, the parking spaces for the retail store, footpaths and bus stops and lay-bys shall have been constructed on site, in accordance with that which is shown on the docketed site plan. Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

To ensure that adequate and satisfactory provision is made for access and for off-street parking in the interests of road safety.

- 10 A signal controlled pedestrian crossing shall be provided on the B6471 road in a position some 115 metres to the east of the centreline of the junction of the approved customer access road and the B6471 road and the signal controlled pedestrian crossing shall be constructed and in use prior to the retail store first opening for trade. Details of the signal controlled pedestrian crossing shall be submitted to and approved in advance by the Planning Authority and the pedestrian crossing shall be constructed in accordance with the details so approved.

Reason

To ensure that an adequate and safe standard of pedestrian crossing is provided in the interests of highway safety.

- 11 Details of the provision of cycle parking within the site shall be submitted to and approved in writing by the Planning Authority prior to the retail store opening for trade. The cycle parking shall be provided within the site at a rate of 1 space for customers and 1 space for employees per 300m² of the gross floor area of the retail store hereby approved. The approved cycle parking shall be installed on site prior to the retail store opening for trade.

Reason:

To reduce dependence on the private car in the interest of the amenity of the area.

- 12 Prior to the retail store opening for trade the bus shelters proposed to be positioned on both sides of the B6471 road shall be installed. Details of the bus shelters shall be submitted to and approved in advance by the Planning Authority, and the bus shelters shall be installed in accordance with the details so approved.

Reason:

To reduce the dependence on the use of the private car in the interests of promoting sustainable transport policy.

- 13 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. Such facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason

In the interests of road safety.

- 14 Prior to the commencement of development, details of the following transportation requirements, including a timetable for implementation, shall be submitted to and approved in writing in advance by the Planning Authority.

1. The provision of a visibility splay of 4.5 metres by 90 metres on each side at the junction of the new access road serving the service yard of the retail store and the westernmost units of the Commerce Park with the B6471 road so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface;

2. The provision of a visibility splay of 2.5 metres by 70 metres on each side at the junction of the new access road serving customers of the retail store with the B6471 road so that no obstruction lies

within it above a height of 1.05 metres measured from the adjacent carriageway surface;

3. The B6471 road shall be resurfaced/ repaired as shown in drawing no. 08-4698-PRGSHF-6101 Rev A;

4. The completion of Stages 2, 3 and 4 of the Road Safety Audit for the roadworks associated with the retail store development;

5. The submission of a maintenance manual or plan for the new access road serving the service yard of the retail store and the westernmost units of the Commerce Park and for the new cycle route connecting that access road and the Haddington to Longniddry railway walk. The plan shall detail (those persons) responsible for routine /general maintenance of the road and cycleway including (such) items as sweeping/litter picking/cleansing of surface water systems/road lighting and any future repairs to the fabric of the road and cycleway that may be required and the maintenance plan should also include arrangements for Winter maintenance - snow clearing/gritting etc. The Plan shall be provided to the Council in sufficient time (for Officers) to assess and agree the arrangements detailed within the plan prior to opening of the store and associated roads. The plan shall be provided in order to ensure the safety of members of the public who will access the store using these routes;

The transportation requirements detailed above shall be fully implemented in accordance with the details so approved prior to the commencement of use of any part of the development.

Reason:

In the interests of road and pedestrian safety.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)

REPORT TO: Planning Committee
MEETING DATE: Tuesday 5 March 2013
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

2

Application No. **12/00660/AMM**

Proposal Approval of matters specified in conditions of planning permission in principle 09/00486/OUT - Erection of 126 houses, 72 flats and associated works

Location **Land To The West Of Brodie Road
Hallhill
Dunbar
East Lothian**

Applicant Mansell Homes & Hallhill Developments Ltd

Per EMA Architecture + Design Limited

Ward 7

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

Although this application is for the approval of matters specified in conditions of planning permission in principle 09/00486/OUT it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the number of dwellings detailed is greater than 50. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

In January 2012 planning permission in principle 09/00486/OUT was granted for a residential development of some 525 houses on some 22.2 hectares of agricultural land at Hallhill, to the southwest of Dunbar. That land is the strategic housing site of Proposal H2 of the adopted East Lothian Local Plan 2008.

A condition of planning permission in principle 09/00486/OUT requires that the phasing of the development of the site should be carried out in strict accordance with the phasing plans that are in the Masterplan Document docketed to the planning permission in principle, unless otherwise approved in writing in advance by the Planning Authority.

The approved phasing plans of the docketed Masterplan Document split the housing development of the site of 525 houses into 7 Phases of development and sets out the number of housing completions for each phase of development in each audit year.

This application for approval of matters specified in conditions of planning permission in principle 09/00486/OUT is for the details of:

(i) the siting, design, external appearance, accessing and landscaping and of other principles of development of Phases 1, 2 and 3 of a housing development of the site of 525 houses; and

(ii) the formation of a length of distributor road to the north of Phase 3 to serve Phases 5, 6 and 7 of the overall housing development of 525 houses, and the provision of a SUDS pond and an area of open space in the northeast corner of the larger housing development site of 525 houses.

The approved phasing plans of the docketed Masterplan Document show that up to 201 of the 525 houses would be erected on the land of Phases 1, 2 and 3 (60 in Phase 1, 70 in Phase 2 and 71 in Phase 3).

The submitted details for Phases 1, 2 and 3 are for 126 houses and 72 flats, a total of 198 housing units. Of them, 28 houses and 32 flats would be erected on the land of Phase 1, 47 houses and 24 flats would be erected on the land of Phase 2 and 51 houses and 16 flats would be erected on the land of Phase 3. Of the 198 housing units 42 would be detached houses, 24 semi-detached houses and 60 terraced houses and the others would be 72 flats. The submitted details for Phases 1, 2 and 3 also include for the internal access roads, parking courts, landscaped open space, play areas and one pond to serve the on-site provision of a sustainable urban drainage scheme (SUDS).

The application site of Phases 1, 2 and 3 has an irregularly shaped footprint. It is mainly bounded by agricultural land. That agricultural land forms the remainder of the larger site the subject of planning permission in principle 09/00486/OUT. At its nearest point The A1 trunk road is some 30 metres to the south of the application site. The site is bounded partly to the north and east by a housing site that is being developed by Taylor Wimpey for 130 houses (a development approved by the grant of planning permission 09/00623/FUL). The application site has a gently rolling topography. It is enclosed along its southern boundary by a stone wall, which is in parts some 2 metres high.

Vehicular access to the houses and flats of Phase 1 would be from Brodie Road, at a point immediately to the south of the junction of Brodie Road and Moray Avenue. Vehicular access to the houses and flats of Phase 2 and Phase 3 would be taken from the western end of Brodie Road at the southern end of the housing site that is being developed by Taylor Wimpey. Additionally, vehicular access would be taken from the A1 trunk road via the unclassified road that is immediately to the south of the site and through Phase 3 as the southern part of the distributor road that otherwise is to be formed to the north of Phase 3 to serve Phases 5, 6 and 7.

As a conditional requirement of planning permission in principle 09/00486/OUT the existing junction of the unclassified road with the A1 trunk road (the Eweford junction) has to be upgraded.

Two areas of open space are proposed, one which would be immediately to the north of the housing of Phase 2 and one which would be immediately to the west of the housing of Phase 2.

Amended plans have been submitted showing:

(i) revisions to the access, parking and street layout of the proposed housing development; and

(ii) revisions to the number of private market and affordable residential units that are to be built in Phases 2 and 3 of the proposed development.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application is Policy ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies H1 (Housing Quality and Design), DP1 (Landscape and Streetscape Character), DP2 (Design), C1 (Minimum Open Space Standard for new General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), T2 (General Transport Impact), DP20 (Pedestrians and Cyclists), DP22 (Private Parking) and DP24 (Home Zones) of the adopted East Lothian Local Plan 2008.

A material consideration is the supplementary planning guidance of "Design Standards for New Housing Areas" approved by the Council on 10th March 2008. This guidance requires that a more flexible approach be taken in road layout and design for proposed housing developments and sets core design requirements for the creation of new urban structures that will support Home Zone development as well as establishing design requirements for the layout of and space between buildings. Developers must provide adequate information to the satisfaction of the Council to demonstrate the merits of their design.

Also material to the determination of the application is the representations received from the public.

2 written representations have been received, both of which make objection to the proposed details of development.

A copy of both written representations are contained in a shared electronic folder to which all Members of the Committee have had access.

The main grounds of objection are summarised as follows:

- * Increased traffic generation would be a road safety hazard;
- * Devaluation of objector's property;
- * Loss of area of open space; and
- * Local infrastructure would need to be substantially improved to accommodate the housing proposed.

Dunbar Community Council, a consultee, do not object to the proposals.

Whether or not a proposed development would affect the value of an existing property is not a material consideration in the determination of an application for planning approval.

By the grant of planning permission in principle 09/00486/OUT approval has been given for the principle of the erection of up to 201 residential units on the application site. There can therefore be no objection in principle to the details of the proposed 126 houses and 72 flats (a total of 198 residential units), distributor road and the other SUDS pond and the area of open space.

In the consideration of this application the requirement is to determine whether or not the submitted details of development are consistent with the principles of development set for such development of the respective areas of land by planning permission in principle 09/00486/OUT and whether or not the development would be appropriate to its place.

The details now submitted for approval are for a scheme of development comprising a mix of detached, semi-detached and terraced houses and flatted properties (16 types of residential units), with all of the proposed 126 houses and flats buildings either being single storey or two storey in height.

The houses, flats and associated areas of ground, in their proposed groupings, orientations, and layout would mainly be consistent with the principles of 'Home Zones' as set out in the Council's Design Standards for New Housing Areas, as would be the proposed layout of roads (with their contrasting surface finishes to denote shared surfaces where appropriate), pathways, parking courts and parking spaces. The only significant exception relates to the proposed open plan form of the front gardens of the houses and flats. The Council's 'Home Zones' Design Standards state that, where provided, front gardens should be short with a depth of approximately 3.5 metres and should be enclosed by a boundary treatment such as low walls, hedges, fences, or railings. In the case of the proposed development, many of the front gardens are short, with a depth of approximately 3.5 metres. This helps to focus attention on the streets, a key principle of 'Home Zones'. Open plan front gardens are an integral design feature of the recent housing developments at Hallhill/Lochend. The front gardens of the existing houses of Moray Avenue and Steadings Gardens, which are to the east of the application site, are open plan. The front gardens of the 130 houses currently being built by Taylor Wimpey on the land immediately to the north and east of the application site are also approved to be open plan. To require the front gardens of the proposed 126 houses and 72 flats to be enclosed by a boundary treatment would be at odds with this characteristic of the Hallhill/Lochend area.

The layout proposed is generally informal and has designed into it some intrinsic interest. It embodies an appropriate mix of detached, semi-detached and terraced houses and also flats. The proposed houses and flats, due to their positioning on the application site and by virtue of their height, size and scale would integrate with the two storey houses they would be in proximity to and thus would be appropriate to their location. The proposed houses and flats would be of a similar form and design to the already approved houses that have been built within the Hallhill/Lochend area, and they would not therefore appear as a disjointed and inharmonious grouping of buildings. The proposed houses and flats would not cause any incongruous change to the architectural harmony, integrity and character of the Hallhill/Lochend area. In this regard, the predominant external wall finish should be render. This planning control can be secured by a condition imposed on the approval of matters specified in conditions for the proposed housing development.

The proposed housing development would provide an attractive residential environment. The houses and flats are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses and flats an appropriate level of privacy and residential amenity.

The land of Phases 1, 2 and 3 and of the proposed distributor road, the other SUDS pond and the area of open space is capable of accommodating all of the development detailed for it to a pattern and of a density consistent with existing patterns and densities of housing development at Hallhill/Lochend.

The proposed positioning of the 126 houses and 72 flats and other components of the development would not prejudice the form of the other Phases of the housing development of 525 houses approved in principle by the grant of planning permission in principle 09/00486/OUT.

The Council's Policy and Projects Manager recommends that a detailed scheme of landscaping should be submitted for the land of Phases 1, 2 and 3 and of the proposed distributor road, the other SUDS pond and the area of open space. The scheme of landscaping should be based on the 'Hallhill Landscape Strategy', which is docketed to planning permission in principle 09/00486/OUT. It should also show specimen tree planting within the areas of open space adjacent to the two SUDS ponds and the area of open space shown to be positioned to the north of plots 132 and 161 of the proposed housing development. The submission of the detailed scheme of landscaping and thereafter its implementation can be secured by a condition imposed on the approval of matters specified in conditions for the proposed housing development.

At its nearest, the A1 trunk road is some 30 metres to the south of the application site. The nearest of the proposed residential units would be some 45 metres from the road. In this regard the Council's Environmental Protection Manager recommends that the south facing windows serving noise sensitive rooms (living rooms and bedrooms) of the proposed residential units that would be positioned on plots 32-49, 67-72, and 94-95 (as delineated on the submitted site plan drawing) be fitted with 6/12/6 glazing. He further recommends that an acoustic barrier be provided along the southern boundary of the land of Phases 1 and 3. These recommended noise mitigation measures, including details of the acoustic barrier, can be secured by a condition imposed on the approval of matters specified in conditions for the proposed housing development.

On all of these foregoing findings on matters of design, density, layout, landscaping and amenity the details submitted for approval are consistent with Policies ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies DP1, DP2 and DP24 of the adopted East Lothian Local Plan 2008, and with the Council's Design Standards for New Housing Areas.

Included in the site layout of the proposed housing development is the formation of two areas of public open space, one which would be immediately to the north of the housing of Phase 2 and one which would be immediately to the west of the housing of Phase 2. Each area of public open space would be overlooked from houses that would be nearest to them. The Council's Landscape and Countryside Manager is satisfied with the size and location of the proposed two areas of public open space. As a standard of open space provision for the 198 houses and flats they are consistent with the requirements of Policy C1 of the adopted East Lothian Local Plan 2008 and with the Masterplan docketed to planning permission in principle 09/00486/OUT.

A play area would be located to the east of the houses and flats of Phase 1 and a play area would be centrally located on the area of open space that would be to the west of the housing of Phase 2. The Council's Landscape and Countryside Manager does not object to either the size or location of the proposed two play areas. She does however recommend that details of the play areas should be submitted to and approved in advance by the Planning Authority and that the play areas be thereafter formed in accordance with the details so approved. This planning control can be secured by a condition imposed on

the approval of matters specified in conditions for the proposed housing development. Subject to the imposition of this condition, the proposed play area provision is consistent with Policy C2 of the adopted East Lothian Local Plan 2008.

The applicant confirms that the future maintenance of the areas of open space and of the play areas would be through a factoring arrangement.

Paragraph 2.6 of the "Design Standards for New Housing Areas", approved by the Council on 10th March 2008, states that new housing development must create a hierarchical, permeable and interconnected street layout that complements and should extend the surrounding street pattern. Such layouts spread vehicle traffic evenly through a site and to the surroundings, help prevent localised traffic congestion, and encourage walking and cycling. Proposed street layouts must maximise connections within the site and to surrounding streets, and ensure the movement requirements of the development strategy are met. By the design and arrangement of street types, street layouts must influence vehicle drivers preferred route choice to ensure the tertiary streets between residential blocks are less busy. In paragraph 2.9 it is stated that Home Zones must be introduced to new development as part of a hierarchical, permeable and interconnected street layout.

The principles of the means of accessing of the housing of Phases 1, 2 and 3 and of the provision of a distributor road to the north of Phase 3 are already decided by the grant of planning permission in principle 09/00486/OUT. These are that vehicular access to the housing development of 525 houses should be taken from Brodie Road, by way of a westwards extension of Brodie Road and from the A1 trunk road via the unclassified road that is immediately to the south of the site and that the existing junction with the A1 trunk road should be upgraded.

The submitted details for accessing Phases 1, 2 and 3 and of the otherwise proposed distributor road are in accordance with these established principles of the means of accessing the housing development of 525 houses.

The Council's Transportation service raise no objection to the submitted details. They do however make recommendations on the standards of provision.

They recommend that:

(i) prior to the commencement of development details showing how the alignments and levels of the footpath, cycle path and road connections shown on the submitted layout plan are to be made shall be submitted and approved.

(ii) vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossings and shall have adequate width to enable two way movement of vehicles at the accesses;

(iii) in accordance with the phasing plans docketed to planning permission in principle 09/00486/OUT, the new off-site pedestrian/cycle routes through the woodland of Lochend Woods to the north east of the site should be constructed, lit and available for use before the completion of Phase 2. Details of the pedestrian/ cycle route should be submitted to and approved by the Planning Authority;

(iv) all footpaths and cycle paths from a zone under construction to their connections to existing pedestrian/cycle routes should be constructed to an adoptable standard before the occupation of any of the residential units of the particular zone;

(v) wheel washing facilities are provided during the construction phase of the housing development; and

(vi) the access for emergency vehicles only from the unclassified road from Eweford to Belhaven that is to the west of the application site shall, at the time of its completion, have installed across it a means of allowing for its use by emergency vehicles only but not by any other vehicles in accordance with details of such means to be submitted to and approved.

All of these requirements can reasonably be made conditions of the approval of matters specified in conditions for the proposed housing development

The Transportation service are generally satisfied with the number and layout of car parking spaces proposed for the housing development. They do however recommend that:

(i) driveways should have minimum dimensions of 6 metres by 2.5 metres. Double driveways should have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length;

(ii) within private parking areas, the minimum dimensions of a single parking space should be 2.5 metres by 5 metres. All visitor parking spaces within these areas should be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

(iii) all prospectively adoptable parking bays (i.e. that will form part of the public road) should have minimum dimensions of 2.5 metres by 6 metres. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay; and

(iv) the parking for plots 62 and 63 are not acceptable. Instead two parking spaces for the houses of plots 62 and 63 should be provided to the rear of the footway and additionally 2 visitor parking spaces should be provided elsewhere within Phase 3 of the housing development.

Cycle parking for the proposed 72 flats should also be provided at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed. This requirement can reasonably be secured by a condition of the approval of matters specified in conditions for the proposed retail store development.

On these foregoing transportation and other access considerations the proposed residential development is consistent with Policies T2, DP20 and DP22 of the adopted East Lothian Local Plan 2008.

The mechanism of a financial contribution towards additional educational provision in Dunbar for a housing development of 525 houses has already been secured through the grant of planning permission in principle 09/00486/OUT.

The mechanism of the provision within the residential development of 525 houses of 25% affordable housing (i.e. 131 units of the proposed 525 units) is already secured through the grant of planning permission in principle 09/00486/OUT. The Council's Housing Strategy & Development Service Manager is satisfied with the proposed location for the affordable housing provision detailed for Phases 1, 2 and 3 and with the proposed overall mix of affordable housing tenures, house types and sizes of Phases 1, 2 and 3.

The layout of the proposed development includes provision of two sustainable urban drainage scheme (SUDS) ponds designed to attenuate the flow of surface water run-off. SEPA has no objection in principle to the proposed SUDS ponds but advise that details of the levels of SUDS treatment should be submitted for the prior approval of the Planning Authority, following consultation with SEPA. This planning control can be secured by a condition imposed on the approval of matters specified in conditions for the proposed housing development.

Scottish Water confirm that they have no objection to the proposed housing development. They advise of their statutory requirements for the servicing of the development. A copy of their comments has been forwarded to the applicant.

Condition 3 of planning permission in principle 09/00486/OUT requires that the phasing of the development of the site shall be carried out in strict accordance with the phasing plans that are in the Masterplan Document docketed to planning permission in principle 09/00486/OUT, unless otherwise approved in writing in advance by the Planning Authority.

The Council has recently received a formal request from Hallhill Developments Ltd to amend the phasing of the housing development of 525 houses approved in principle by the grant of planning permission in principle 09/00486/OUT. Through this request it will be for the Council as Planning Authority to decide whether or not the proposed amendment to the phasing of the development is acceptable.

What is detailed for Phases 1, 2 and 3 in this current application for approval of matters specified in conditions is consistent with the phasing plans of the Masterplan Document docketed to planning permission in principle 09/00486/OUT and, thereby, is also consistent with the grant of planning permission in principle 09/00486/OUT. Accordingly there is no good reason at this time for the Planning Committee to refuse to approve the submitted details of Phases 1, 2 and 3. Such an approval would not prejudice a consideration of the formal request from Hallhill Developments Ltd to amend the phasing of the housing development of 525 houses. Neither does it mean that the substance of the applied for amendment to the phasing of development would necessarily change the detailed form of development of the land of current Phases 1, 2 and 3 for which approval is now sought.

RECOMMENDATION

That approval of matters specified in conditions for the proposed housing development be granted subject to the following conditions:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 A detailed specification of all external finishes of the houses and flats of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail respect the layout of the development and shall promote render as the predominant finish to the walls of the houses and flats. All such materials used in the construction of the houses and flats shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 3 Prior to the commencement of development details of the bin and cycle storage facilities for the flatted properties shall be submitted to and approved in advance by the Planning Authority. The details shall show at least 1 cycle space per flat. Prior to the occupation of any of the flats the bin and cycle storage facilities shall have been formed in accordance with the approved details and made available for use. Thereafter, the storage facilities shall be retained in use solely as bin and cycle storage areas.

Reason:

To ensure the provision of adequate bin and cycle storage in the interest of the residential amenity of the future occupants of the flats hereby approved and the visual amenity of the locality.

- 4 Prior to the commencement of development details of the position and type of all boundary enclosures to be erected on the application site shall be submitted to and approved in advance by the Planning Authority. Development shall thereafter be carried out in full accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory appearance of the fencing in the interest of safeguarding the visual amenity of the area and to safeguard the privacy and amenity of residential properties nearby.

- 5 Prior to any use being made of the residential units hereby approved for plots 32-49, 67-72 and 94-95, any windows of those residential units serving noise sensitive rooms (living rooms and bedrooms) and facing towards the A1 trunk road shall be provided with 6/12/6 glazed units with acoustic trickle vents for ventilation purposes.

Reason:

In order to protect the privacy and amenity of the residential units approved for plots 32-49, 67-72 and 94-95 of the housing development.

- 6 No house and no flat shall be occupied until an acoustic barrier has been erected that runs along the entire length of the southern boundary of the application site. The details of the acoustic barrier shall be submitted to and approved by the Planning Authority prior to its erection.

Reason:

To ensure an appropriate level of acoustic screening in the interests of the amenity of the future occupants of the site.

- 7 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of : the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme of landscaping shall be based on the 'Hallhill Landscape Strategy', which is docketed to planning permission in principle 09/00486/OUT. It shall also show specimen tree planting within the areas of open space adjacent to the two SUDS ponds and the area of open space to the north of plots 132 and 161 of the proposed housing development. The scheme shall also include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the

development in the interests of the amenity of the area and to improve the biodiversity value of the area.

- 8 The details of the play equipment and surfacing materials to be installed in the play areas shall be submitted to and approved in advance by the Planning Authority. The details to be submitted shall include a timetable for its installation.

The play equipment and surfacing materials shall thereafter be installed in accordance with the details so approved.

The equipped play areas, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory laying out of all play areas in the interest of the amenity of the future occupants of the residential units hereby approved.

- 9 Prior to the occupation of the last house or flat hereby approved, the proposed access roads, parking spaces, and footpaths shall have been constructed on site, in accordance with the docketed drawings and the transportation conditions specified below. Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and flats and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

To ensure that adequate and satisfactory provision is made for access and for off-street parking in the interests of road safety.

- 10 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. Such facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason:

In the interests of road safety.

- 11 Prior to the commencement of development, a scheme detailing levels of sustainable drainage (SUDS) surface water treatment shall be submitted for the written approval of the planning authority, in consultation with SEPA, and all work shall be carried out in accordance with the approved scheme. The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C697) and should incorporate source control.

Reason:

To ensure adequate protection of the water environment from surface water run-off.

- 12 Prior to the commencement of development, details showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

(i) the alignments and levels of the footpath, cycle path and road connections shown on the docketed site layout plan.

(ii) vehicle accesses to private parking areas (i.e. other than driveways) being via a reinforced footway crossing and shall have adequate width to enable two way movement of vehicles at the accesses;

(iii) in accordance with the phasing plans docketed to planning permission in principle 09/00486/OUT, the new off-site pedestrian/cycle routes through the woodland of Lochend Woods to the north east of the site should be constructed, lit and available for use before the completion of Phase 2;

(iv) all footpaths and cycle paths from a zone under construction to their connections to existing pedestrian/cycle routes should be constructed to an adoptable standard before the occupation of any of the residential units of the particular zone;

(v) the access for emergency vehicles only from the unclassified road from Eweford to Belhaven that is to the west of the application site shall, at the time of its completion, have installed across it a means of allowing for its use by emergency vehicles only but not by any other vehicles. Thereafter the

means of such restricted vehicle access shall be retained in place unless otherwise approved by the Planning Authority.

(vi) driveways shall have minimum dimensions of 6 metres by 2.5 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length;

(vii) within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

(viii) all prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay; and

(ix) the parking for plots 62 and 63 is not hereby approved. Instead two parking spaces for the houses of plots 62 and 63 shall be provided to the rear of the footway to the west of those plots and additionally 2 visitor parking spaces shall be provided elsewhere within Phase 3 of the housing development.

The housing development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road and pedestrian safety.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)

REPORT TO: Planning Committee
MEETING DATE: Tuesday 5 March 2013
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

3

Application No. **12/00062/PCL**

Proposal Resurfacing of existing footpaths, formation of new footpaths, car parking areas, erection of fencing, gates, wall, installation of lighting and a change of use from domestic ground to public ground and public ground to domestic ground (part retrospective)

Location **Pencaitland Parish Church, The Cottage and Primary School
Pencaitland
East Lothian
EH34 5DL**

Applicant East Lothian Council

Ward 4

RECOMMENDATION Consent Granted

UPDATE POSITION

At their meeting on 4th September 2012 the Committee decided not to then determine this planning application in order that there be a process of further public consultation on the proposals and a referral of the proposals back to Cabinet for review.

The Council's Transportation service undertook further public consultation with the residents of Pencaitland on the proposals on 30th October 2012.

Following this, the proposals were referred back to Cabinet on 11th December 2012 with a recommendation "That in light of the support shown for the provision of an alternative path route from the west end of the village to the primary school, the proposed path route as shown on the attached layout drawing [no. 001 Ref F] is confirmed as a project but omitting the additional car parking spaces in the school grounds". Cabinet agreed this recommendation.

Consequently, the development proposals the subject of planning application 12/00062/PCL have been amended by the removal from them of the originally proposed extension to the car park of Pencaitland Primary School and to include a consequential repositioning, by some 1.0 metre further to the east, of the footpath proposed to be formed within the school grounds.

Additionally and to address matters raised by the Planning Committee at their meeting on 4th September 2012 some other amendments have also been made to the proposals. These are that:

(i) the north side of the length of footpath adjacent to the top of the retaining wall on the south side of the A6093 public road be enclosed by 1.1 metres high black painted metal railings instead of the originally proposed 1.3 metres high timber post and horizontal railed fencing; and

(ii) the existing opening of the pedestrian stepped access on the south side of the A6093 public road to the north of the Church Offertory House be enclosed by a 1.975 metres high fixed barrier with the appearance of a timber gate instead of an openable timber gate as originally proposed

A further amendment is the now proposed change to the style of the two street lighting columns proposed to be sited on the land to the west of the churchyard from the modern galvanised steel columns originally proposed to the heritage style lantern columns now proposed and which are the same as the lighting columns otherwise proposed to be sited within the churchyard.

All of these amendments are shown on submitted amended application drawings.

In its now proposed position some 1.0 metre further to the east, the length of new footpath to be formed within the school grounds would in part abut the western edge of the existing school car park. It would be surfaced in materials suitable to the locality and would be an appropriate feature within this part of the Conservation Area and within the settings of the listed buildings of Pencaitland Parish Church, The Manse and the stables building.

The now proposed 1.1 metres high black painted metal railings to be erected along the north side of the length of footpath adjacent to the top of the retaining wall on the south side of the A6093 public road would, due to their elevated position above the top of the wall, be visible in public views from the A6093 public road. However they would be of a traditional form in keeping with proposed new churchyard gates and with other existing styles of gates in the locality. By their form, character and appearance they would be an enhancement on the originally proposed 1.3 metres high timber post and horizontal railed fencing. They would be appropriate within this part of the Conservation Area and within the settings of the listed buildings of Pencaitland Parish Church, The Manse and the stables building. Unlike the originally proposed horizontal railed fencing, children would not be able to climb up them with the potential of falling from them onto the public road of the A6093 below.

The new 1.975 metres high fixed timber barrier to be erected across the existing opening of the pedestrian stepped access on the south side of the A6093 public road to the north of the Church Offertory House would have the appearance of vertical boarded timber gate. It would be stained in a colour to match the colouring of the stone work of the boundary wall it would be adjacent to. Although a fixed barrier it would be in keeping with existing styles of gates in the locality and would be appropriate within this part of the Conservation Area and within the settings of the listed buildings of Pencaitland Parish Church, The Manse and the stables building. As a fixed barrier it would prevent pedestrians from using the existing access which is directly onto the road of the A6093.

The use of heritage style lantern lighting columns for the two street lights to be positioned to the west of the churchyard would give a continuity of form and appearance with the same lighting columns otherwise proposed to be sited within the churchyard and would make them appropriate to this part of the Conservation Area. They would not be harmful to

the character and appearance of the Conservation Area or the setting of the listed buildings of Pencaitland Parish Church, The Manse and the stables building.

None of these amendments to the original proposals would change the impact of the proposed development on the trees that are on and adjacent to the site.

These amendments are all consistent with Policies ENV1C, ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV3, ENV4, DP2 and DP14 of the adopted East Lothian Local Plan 2008 and the Scottish Government's policy on development affecting a listed building or its setting and on development within a conservation given in Scottish Planning Policy: February 2010.

With these amendments and as otherwise previously assessed in the original Report for this planning application the proposed development is consistent with the relevant development plan policies and other material considerations.

It is NOW RECOMMENDED that with these amendments the proposed scheme of development should be granted planning permission subject to the conditions listed at the end of the original Report but with the following changes to some of those conditions to account for the amendments made to the proposed development:

- (i) Condition 4 – replacement of the words timber gate with fixed timber barrier.
- (ii) Condition 5 – the stated number of street lighting columns being 9 and not 8.
- (iii) Condition 6 – the stated docketed drawing no. being 001/Rev I and not 001/Rev F.
- (iv) Condition 9 - the stated docketed drawing no. being 001/Rev I and not 001/Rev F.

THE FOLLOWING IS THE TEXT OF THE ORIGINAL REPORT PRESENTED TO THE PLANNING COMMITTEE AT THEIR MEETING ON TUESDAY 4th SEPTEMBER 2012.

PLANNING ASSESSMENT

Planning permission is sought by East Lothian Council for: (i) the resurfacing of existing footpaths; (ii) the formation of new footpaths and car parking areas; (iii) the erection of fencing, gates and wall; (iv) the installation of lighting; (v) the change of use from domestic ground to public ground; and (vi) the change of use from public ground to domestic ground.

It is stated with the application that the proposed development would provide an alternative lit pedestrian route from Easter Pencaitland to Wester Pencaitland. The foundations of the proposed new footpath to be provide on the western part of the application site between the A6093 public road and the Church Offertory House and of the new footpaths to be provided within the churchyard have already been laid, therefore, the application is in part retrospective.

This application relates to the land and buildings of Pencaitland Parish Church, the house of The Cottage and its associated garden ground, which is to the east of the church, and Pencaitland Primary School and grounds, which are to the southeast of the church and to the south of the property of The Cottage.

Pencaitland Primary School is accessed from the public road of The Glebe. Pencaitland Parish Church and The Cottage are located on the south side of the A6093 classified public road and are accessed from that road.

Pencaitland Parish Church, The Cottage and Pencaitland Primary School are all within Pencaitland Conservation Area. They are also all part of a larger area that is defined by Policy ENV1 of the adopted East Lothian Local Plan 2008 as being of predominantly residential character and amenity.

Pencaitland Parish Church, its churchyard and walls and the Church Offertory House are listed as being of special architectural or historic interest, Category A. The Manse house to the southeast of the church, its walls and gate piers, and the detached former stable court building to the northeast of it are together listed as being of special architectural or historic interest, Category B.

A small part of the far western part of the application site is within the Fluvial Flood Risk envelope of the Indicative River and Coastal Flood Map (Scotland) as defined by the Scottish Environment Protection Agency.

A small group of trees on the western part of the application site to the west of the churchyard and to the east of the driveway of The Manse are protected by Tree Preservation Order No. 10 and trees T53 and T54 of Tree Preservation Order No. 10 are located to the east of the churchyard, one on each side of the vehicular access to one of the proposed car parking areas.

The application site is bounded to the north by the classified A6093 public road, to the west by an area of scrubland and woodland beyond which is the Tyne Water, to the south in part by the residential properties of The Manse and The Courtyard Flat beyond which is the Tyne Water and in part by an area of scrubland and woodland beyond which is the Tyne Water, and to the east by residential properties of The Glebe.

Since the application was registered the annotation on the drawings has been amended with regard to the proposed change of use of the two areas of land, details of the proposed handrails have been provided, and at the request of the Council's Policy and Projects Manager replacement tree planting is shown to be provided on the western part of the site, changes have been made to the surface finishes that would be within the root protection areas of some of the trees on the eastern part of the site and alterations to the ground levels of the grass verge on the western side of the vehicular access road to one of the proposed car parking areas have been removed from the proposed development.

To facilitate part of the footpath route an existing 2.2 metres length of 1.75 metres high stone boundary wall located towards the southeast corner of the churchyard, an existing 35 metres length of 2.0 metres high mesh fencing located towards the northwest corner of the school grounds would be removed, and an existing 4.7 metres length of stone boundary wall also located towards the southeast corner of the churchyard would be reduced from 1.75 metres to 1.25 metres in height. The removal of the length of wall and the length of fencing and the reduction in the height of the wall do not require planning permission and therefore do not form part of the assessment of this application for planning permission. The removal of the length of wall and the reduction in height of the length of wall of the churchyard do however require listed building consent and form part of listed building consent application 12/00193/ELL.

Through application 12/00193/ELL the Council applied to Historic Scotland for listed building consent for the formation of the proposed new and replacement footpaths and for the part demolition of walls, all as associated with the development for which planning permission is sought. Historic Scotland has granted that listed building consent.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Policies ENV1C (International and National Historic or Built Environment Designations), ENV1D (Regional and Local Natural and Built Environment Interests) and ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies ENV3 (Listed Buildings), ENV4 (Development Within Conservation Areas), DP2 (Design) DP14 (Tree on or adjacent to Development Sites) and ED1 (Schools) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building or its setting given in Scottish Planning Policy: February 2010.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Also material to the determination of the application are Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development within a conservation given in Scottish Planning Policy: February 2010.

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development that would have a neutral affect upon the character or appearance of a conservation area (i.e. does no harm) should be treated as one which preserves that character or appearance. The design, materials, scale and siting of new development within a conservations area should be appropriate to the character of the conservation area.

Nine representations to the application have been received. Six of the representations raise objections to the application. The grounds of objection as summarised are:

- i. part of the footpath on the western part of the application site is too close to the historic roadside boundary wall and damage has occurred to the wall, and in being so close to the historic wall with a drop down to the road on the other side of it, pedestrians using this length of footpath will be in danger of falling, or if a handrail were erected in this location it would destroy the historic setting;
- ii. there was no consultation with the residents of the houses of The Glebe or other properties affected by the proposals;
- iii. the proposals include additional car parking spaces at the Primary School and footpath links to the church, and such proposals will increase traffic along The Glebe which is

already congested during school hours and congestion will then extend for longer periods throughout the day;

iv. how much is this development costing the tax payer and what benefits are envisaged;

v. the proposals have come about due to a safety issue involving the main road (A6093) opposite the church and the safety concerns would not just be transferred to The Glebe;

vi. work has commenced on the proposed development;

vii. no pelican crossing is shown on the drawings and the absence of this will act as a disincentive to use the proposed footpath route;

viii. if the new gates that are proposed along the proposed footpath route are kept locked then pedestrians will be unable to use the route;

ix. the timber post and rail fence that is proposed as a guard rail on the northern side of the length of footpath that is to be on the western part of the application site is not in keeping with the character of the Conservation Area or the setting of this Category A listed building and is inadequate to prevent toddlers and children from falling through it or climbing on it;

x. what measures are proposed to ensure that no graves are disturbed by the proposed works?;

xi. the reduction in height of part of the historic boundary walls of the church will be harmful to the visual appearance of the listed building in the Conservation Area;

xii. the hot rolled asphalt surface of the footpaths in the churchyard would not be in keeping with the historic nature of the site;

xiii. the proposed parking spaces will increase traffic and have a negative effect on road safety, resulting in a loss of privacy for residents and increased activity to the detriment of the area;

xiv. the proposed lighting columns within the churchyard would be harmful to the visual appearance of the listed building in the Conservation Area;

xv. is the footpath route really necessary as there is already an alternative pedestrian route from Easter Pencaitland to Wester Pencaitland without having to use the narrow footpath on the north side of the A6093 opposite the church; and

xvi. is the additional parking really necessary?

One of the representations raises the question of when the application will be determined.

Whether or not the north (roadside) boundary wall on the western part of the application site was damaged, a small part of this wall has been repaired. However such repair of the wall does not require planning permission and therefore not subject to planning control.

There is no requirement under planning legislation for this application for planning permission to have been the subject of public consultation other than through Pencaitland Community Council, who have not asked to be consulted and have not commented on the application.

The application was, however, the subject of statutory neighbour notification and public notice of it was given by advertisement in the local press under the categories of the development affecting the character and appearance of a conservation area and development affecting a listed building or its setting.

On the matter that development has already commenced, the applicant informs that the foundations of footpaths were already laid to coincide with drainage works carried out by Pencaitland Parish Church and thus to avoid further disturbance within the churchyard at a later date. The fact that the foundations of footpaths have been laid does not prejudice the determination of this application.

The provision of a pelican crossing across the A6093 public road is not part of this application for planning permission.

The matters of the cost, necessity or otherwise of the proposed development are not material considerations in the determination of this application for planning permission.

The remaining three representations are supportive of the proposed development and their comments as summarised are:

- i. the proposals to create a safer off-road footpath through the heart of Pencaitland is to be welcomed as a major improvement to the existing situation but none of the application drawings refer to a new pedestrian crossing at the stone bridge to the west of the application site which was understood to be part of the plan;
- ii. the proposed footpath route and the additional parking at the school are favourable proposals; and
- iii. the proposed footpath route will improve safety for some pedestrians but the existing footpath along the north side of the A6093 classified public road still requires attention as pedestrians will still use that route. The road is too narrow at this location and vehicles sometimes mount the pavement to negotiate around other traffic waiting at the traffic lights.

The proposed change of use of a small triangular shaped area of land of the south-western part of the rear garden of the house of The Cottage to public ground would facilitate the formation of the footpath connection between the Primary School and the church land to the west. The area of land is small in size and directly abuts the school grounds on its southeast side and the church land on its western side. There would be only limited long range views of it from the western end of The Glebe and from the A6093 public road and only short duration views of it from the existing vehicular access to the west of the property of The Cottage. The change of use of this area of garden ground to public land would not be harmful to the amenity of the occupiers of the house of The Cottage or the character and appearance of the area. It would not have a detrimental impact on the character and appearance of the Conservation Area or on the setting of the Category A listed building of Pencaitland Parish Church or the Category B listed building of the former stable building, both to the west.

In exchange for the change of use of the small area of garden ground of the house of The Cottage to public ground it is proposed to change the use of a small part of an existing grassed area within the school grounds to the north of the existing school car park from public use to private garden ground for the house of The Cottage.

By currently being part of the school grounds this area of land is covered by Policy ED1 of the adopted East Lothian Local Plan 2008, which requires that school buildings and their playgrounds/playing fields are retained for educational and community use.

The area of land the subject of the change of use to garden ground is small in size when compared to the overall size of the school grounds. It is part of a larger area of rough grassed land that is to the north of the existing school car park and to the west of the 'Janitors House'. It does not form part of the school playgrounds or playing fields. The change of use of this small area of the school grounds to garden ground would not have an appreciable impact on the use of the Primary School and its playgrounds and playing fields for educational and community use and does not conflict with Policy ED1.

It directly abuts the southern boundary of the rear garden of The Cottage. There would be only limited views of the area of land from the A6093 public road and from the vehicular access to the house of The Cottage. It would not have a detrimental impact on the character and appearance of the Conservation Area or on the setting of the Category A listed building of Pencaitland Parish Church or the Category B listed building of the former stable building, both further to the west.

One of the proposed car parking areas would form an extension to the northern end of the existing school car park that is on the west side of the school site. It would be surfaced with hot rolled asphalt. As does the existing school car park it would be accessed from The Glebe.

The other proposed car parking area would be formed to the east of the former stable building. This area of land is presently used as an informal car park. It would be surfaced with charcoal coloured permeable tegula block paving. It would be accessed from the existing vehicular access from the A6093 public road. The existing vehicular access would be re-surfaced with hot rolled asphalt for the first 20 metres of it and thereafter the remaining length of it leading to the proposed car parking area would be surfaced in permeable tegula block paving.

The proposed new and resurfaced footpaths would be located: (i) to the west of the churchyard; (ii) to the north, northeast, east and southeast of the church within the churchyard; (iii) to the east side of the former Manse stable building; (iv) to the south of the east boundary wall of the churchyard across the vehicular access to the proposed car parking area; (v) across the land the subject of the change of use from garden ground to public ground; and (vi) within the school grounds.

All of the lengths of new and resurfaced footpaths would be surfaced with hot rolled asphalt with 6mm buff chips with the exception of the proposed length of footpath that would be to the south of the east boundary wall of the churchyard and which would cross the existing vehicular access to the proposed car parking area at the stables building. That proposed length of footpath would be surfaced with heather coloured permeable tegula block paving.

The length of footpath to the west of the churchyard and part of the length of the proposed new footpath that is to give access to the school car park would each have a handrail along one side of it. Each of the proposed handrails would be 1.1 metres high and would be of nylon coated rolled steel construction supported on timber posts with a timber kick plate close to ground level.

A 1.3 metres high retaining wall is proposed to be erected along part of the east side of the proposed car parking area at the stables building. The external face of that wall would be

finished with natural stone to match the existing walls of the churchyard and lime mortar would be used for the pointing of the stonework.

The proposed lengths of new fencing would be: (i) a 1.8 metres high metal post and chain mesh fencing that would be positioned along the new boundary between the school grounds and the residential property of The Cottage and along the northeast and southeast boundaries of the land the subject of the change of use to public ground; and (ii) a 1.3 metres high timber post and rail fencing that would be positioned: (a) to the west of the churchyard and immediately to the south of and parallel to the A6093 roadside retaining boundary wall and which would extend for some 22 metres in a westerly direction from a position immediately to the west of an existing set of pedestrian access steps; (b) on the northeast side of the existing driveway leading to The Manse; and (c) on the southwest side of the existing driveway leading to The Manse and there from some 22 metres in a south-westerly direction.

A pair of metal pedestrian gates is proposed to be erected across the footpaths at the northwest corner of the school grounds, at the southwest corner of the churchyard where the new opening is to be made in the boundary wall and at the existing western entrance into the churchyard. Those metal gates and their metal gate posts would be painted gloss black. The gates would be respectively, 1.6 metres high, 0.98 of a metre high and 1.575 metres high. The gate posts of the proposed gates to be erected at the southwest corner of the churchyard and at the existing western entrance into the churchyard would not be attached to the listed boundary walls of the church but would instead be freestanding.

A new timber gate is proposed to be erected at an existing pedestrian stepped access that is to the west of the churchyard wall and to the north of the Church Offertory House. The proposed timber gate would be 1.975 metres high. It would be of timber construction and would be stained in a colour to match the colouring of the stone work of the boundary wall it would be adjacent to. The stepped access leads directly to the public road at a point where there is no footpath on the south side of that road and therefore, this new timber gate is proposed to be kept locked.

A new steel tubular framed field gate and posts would be erected across the driveway to The Manse in a position set back some 10 metres from the southeast side of the A6093 public road, and an existing steel tubular framed field gate and posts would be relocated from a position at the western edge of the site to a new position adjacent to the southwest side of the driveway to The Manse.

It is proposed to erect 2 street lighting columns to the west of the churchyard, 6 within the churchyard, 1 to the east of the stables building, 1 on the east side of the vehicular access to the proposed new car parking area that would be to the south of the eastern part of the churchyard and 2 within the school grounds. The street lighting columns would illuminate the proposed footpaths. The 6 street lighting columns that are proposed to be within the churchyard would be 5 metres high and have a heritage style lantern fitting at the top of them. They would be painted black. The other street lighting columns would also be 5 metres high but would be of a more modern construction and would have a galvanised steel finish.

The proposed car parking areas and new and resurfaced footpaths would be finished in materials suitable to the locality and would not be inappropriate within this part of the Conservation Area or within the settings of the listed buildings of Pencaitland Parish Church, The Manse and the stables building. The proposed metal and mesh fencing would be in keeping with the existing fencing of the school grounds. The proposed timber post and rail fencing would not be dissimilar to other styles of timber fencing that can be seen from the A6093 classified public road and thus would not be inappropriate within this

part of the Conservation Area or within the settings of the listed buildings. The proposed gates in their respective positions would be in keeping with existing styles of gates in the locality and would not be inappropriate within this part of the Conservation Area or within the settings of the listed buildings. The proposed street lighting columns that are proposed to be outwith the curtilage of the Church would be in keeping with the height and form of other street lighting columns in the locality. They would not be inappropriate within this part of the Conservation Area or within the setting of the Church. The proposed heritage style street lighting columns that would be within the curtilage of the Church would be of a more historic traditional form and design that would not be harmful to the setting of that listed building or the character and appearance of the Conservation Area.

Historic Scotland comments that the resurfacing of the gravel footpaths within the churchyard with hot rolled asphalt with buff chips would provide a DDA compliant surface that would replace a gravel surface finish that can sometimes be problematic for some users. They are satisfied that the proposed development would be in keeping with the overall character of the area and that the development within the curtilage of the Category A listed building of Pencaitland Parish Church and the Category B listed building of the former stables building would not be harmful to the settings of those listed buildings.

The proposed development would not result in any harmful loss of privacy or amenity to any neighbouring residential property.

On all of these considerations, as relevant, the proposed development is consistent with Policies ENV1C, ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV3, ENV4 and DP2 of the adopted East Lothian Local Plan 2008 and the Scottish Government's policy on development affecting a listed building or its setting and on development within a conservation given in Scottish Planning Policy: February 2010.

The trees between the west side of the churchyard and the driveway of The Manse and The Courtyard Flat are protected by Tree Preservation Order No. 10 (Group G1). The landscape advice from the Council's Policy and Projects Manager is that the laying of the foundation of the footpath through this group of trees has severed some of the roots of some of the trees and that those trees have subsequently been removed on safety grounds. She recommends that 8 replacement trees be planted in this area to the west of the churchyard. The application drawings have been amended to show the 8 replacement trees requested by the Policy and Projects Manager.

There are also some trees to the east of the churchyard, between it and the school grounds. Two of these trees are also protected by Tree Preservation Order No. 10 (Trees T53 and T54). Tree T53 (sycamore) is positioned on the grass verge on the west side of the existing vehicular access that is to the east of the churchyard and is some 10 metres to the south of the A6093 public road. Tree T54 (beech) is positioned on a small embankment that is on the east side of the existing vehicular access some 27 metres to the south of the A6093 public road. Additionally, there is a lime tree positioned on the grass verge on the west side of the existing vehicular access and some 9 metres to the south of the sycamore tree. The lime tree is not protected by Tree Preservation Order No. 10 but is protected by virtue of being within Pencaitland Conservation Area.

No tree works are proposed to be carried out to any of these three trees. However, parts of the proposed footpaths and part of the proposed car parking area would be within the root protection area of the beech tree (T54) and the lime tree. The resurfacing of the existing vehicular access to the proposed car parking area at the stables building would be within the root protection area of tree T53 of Tree Preservation Order No. 10 and the lime tree.

The Council's Policy and Projects Manager advises that the resurfacing of the existing vehicular access to the proposed car parking area would not be harmful to the trees because the existing surface finish of the access has limited permeability.

However, parts of the proposed footpaths and part of the proposed car parking area would be within the root protection area of the beech tree (T54) and the lime tree. The surface finish of the part of the footpath that is proposed to cross the vehicular access has been amended to be permeable block paving and the construction of the edging for the footpath that is proposed to extend from the vehicular access to the extended car park within the school grounds has been amended to be formed with timber edging as oppose to concrete edging. The Policy and Projects Manager is satisfied that the use of such amended surface finishes and edging would safeguard against harm to the two trees.

The Policy and Projects Manager advises that any excavation for the length of footpath that is proposed to extend from the vehicular access to the extended car park within the school grounds should be carried out by hand and that an arboricultural watching brief should be undertaken during construction works within the root protection area of the beech tree (T54). These controls can be reasonably be made conditions of a grant of planning permission for the proposed development. Subject to such controls the Council's Policy and Projects Manager is satisfied that the proposed development would not be harmful to the beech tree (T54).

However, he further recommends that temporary protective fencing should be erected to protect the beech tree (T54), the sycamore tree (T53) and the lime tree.

Subject to the recommended planting of 8 replacement trees on the area of land between the west side of the churchyard and the driveway to The Manse, the hand digging in respect of part of the proposed footpath, an arboricultural watching brief being undertaken and the erection of temporary protective fencing the Policy and Projects Manager is satisfied that the proposed development would not have a harmful impact on the trees on and adjacent to the application site. Subject to the aforementioned controls the proposed development does not conflict with Policy DP14 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service raises no objection to the proposed development.

The Council's Archaeology Officer advises that he is satisfied that the works already carried out to form the foundations of the proposed new footpath to the west of the churchyard and those of the new and resurfaced footpaths within the churchyard have not been harmful to archaeology in the locality and that the remaining proposed works the subject of this application would not require any further archaeological work. Thus, he raises no objection to the proposed development.

A small part of the western part of the application site is within the Fluvial Flood Risk envelope of the Indicative River and Coastal Flood Map (Scotland) as defined by the Scottish Environment Protection Agency. However, the development of a part of a new footpath and the erection of timber post and rail fencing on that part of the application site would be unlikely to have a significant detrimental impact on local flooding.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 The natural stone of the external face of the retaining wall hereby approved to be erected along part of the east side of the car parking area to be formed to the east side of the former Manse stable building

and to the south of the eastern part of the churchyard shall match as closely as possible the natural stone of the walls of the churchyard in its colouring, coursing and pointing.

The pointing of the stone retaining wall shall be carried out with lime mortar and shall match as closely as possible in colour and form of the pointing of the existing churchyard walls.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed buildings of Pencaitlland Parish Church, The Manse and The Manse former stable court building.

- 2 Samples of the tegula block paving, including their colour, to be used to surface the car parking area hereby approved to be formed to the south of the eastern part of the churchyard and the footpath that is approved to extend across the vehicular access to that car parking area shall be submitted to and approved in advance in writing by the Planning Authority prior to their use in the development. Thereafter the tegula block paving used shall accord with the samples so approved.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed buildings of Pencaitlland Parish Church, The Manse and The Manse former stable court building.

- 3 The three pairs of metal gates and their gate posts hereby approved as shown on docketed drawing nos. 005, 006 and 007 shall be painted gloss black unless otherwise approved by the Planning Authority.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed buildings of Pencaitlland Parish Church, and The Manse former stable court building.

- 4 Details of the paint, stain or timber preservative to be used to finish the external face of the timber gate hereby approved as shown on docketed drawing no. 008 shall be submitted to and approved by the Planning Authority prior to its use in the development, and thereafter the paint, stain or timber preservative used shall accord with the details approved.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed buildings of Pencaitlland Parish Church and The Manse former stable court building.

- 5 The 8 street lighting columns with heritage style lantern fittings hereby approved to be sited within the churchyard of Pencaitlland Parish Church and on the land to the west of the churchyard shall be painted black unless otherwise approved by the Planning Authority.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed building of Pencaitlland Parish Church.

- 6 In the first planting and seeding season (October - March) following the footpath to the west of the churchyard being brought into use or the completion of works for this part of the development, whichever is the sooner, eight replacement trees shall have been planted on the area of land to the west of the churchyard, all in accordance with the positions and details shown for them on docketed drawing no. 001/Rev F.

All of the replacement trees shall be planted as standard size 8-12cm girth, 2.75-3 metres high and shall be protected by a single stake and weldmesh guard as per the docketed drawing titled 'GR8 Tree pit system installation' unless otherwise approved by the Planning Authority.

In the event that any such replacement tree(s) die, are removed, or become seriously damaged or diseased within a period of 5 years following planting they shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

To ensure the implementation of landscaping in the interests of the character, appearance and amenity of the area and of the Conservation Area.

- 7 No trees or shrubs, which are to be retained on the site, shall be damaged or uprooted, felled, topped,

lopped or interfered with in any manner without the prior written consent of the Planning Authority.

Reason:

To ensure the retention of vegetation important to the appearance and environment of the development.

- 8 A qualified and experienced arboriculturist shall be employed to carry out an arboricultural watching brief during the construction works.

Reason:

To ensure the retention of and the health of trees within the application site, which are important to the landscape character and amenity of the area and of the Conservation Area.

- 9 All excavation for the section of footpath extending from the east side of the existing vehicular access in an easterly direction for some 15 metres into the school grounds, which is within the root protection area of the beech tree (T54) shall be dug and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

This length of footpath shall be constructed with timber edge boards and timber peg supports in accordance with the detail shown for it on docketed drawing no. 001/Rev F.

Reason:

To ensure the retention of and the health of trees within the application site, which are important to the landscape character and amenity of the area and of the Conservation Area.

- 10 The only construction access to the application site shall be taken along the line of the existing driveway to The manse and of the existing access to the east side of the churchyard.

Reason:

To ensure the retention of and the health of trees within the application site, which are important to the landscape character and amenity of the area and of the Conservation Area.

- 11 No development shall take place on site until temporary protective fencing comprising standard scaffold poles as uprights driven into the ground avoiding tree roots, with 3 standard scaffold poles as horizontal rails (top, middle and bottom), all with weld mesh wired to uprights and rails. This temporary protective fencing should be 2.3 metres in height, erected prior to works commencing and kept in good condition throughout the works, all in accordance with Figure 2 of British Standard 5837: 2005 'Trees in Relation to Construction'.

The temporary protective fencing shall protect the lime tree, sycamore tree (T53) and the beech tree (T54) and shall be positioned as follows:

i. For a length of some 20 metres along the western edge of the vehicular access road leading to the proposed car parking area that is to be formed to the south of the eastern part of the churchyard, and returning in a westerly direction at each end of the grass verge on the western side of the access road to tie into the east boundary wall of the churchyard; and

ii. Along the southern edge of the footpath hereby approved to extend from the existing school car park to the east side of the vehicular access and then turning in a southwest direction along the northern edge of the embankment on which the beech tree is positioned and then following the eastern edge of the car parking area hereby approved and then turning in an easterly direction to tie into the existing west boundary fencing of the school.

A drawing showing the positioning of the temporary protective fencing shall be submitted to and approved in advance in writing by the Planning Authority.

All weather notices should be erected on said temporary protective fencing with words such as "Construction exclusion zone - Keep out" and the fencing shall remain on site and intact through to completion of the development.

Once erected the temporary protective fencing shall be retained in place until works on the application site have been completed and all plant and machinery associated with those works have been removed from the site.

Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used.

Care should be taken when planning site operations to ensure that wide or tall loads, or plant with booms, jib and counterweights can operate without coming into contact with any retained trees.

Any materials whose accidental spillage would cause damage to a tree should be stored and handled well away from the outer edge of a trees root protection area.

Fires should not be lit in a position where their flames can extend to within 5 metres of tree foliage, branches or trunk, and due cognisance must be taken of wind speed and direction prior to and during operations.

Details of any trenches or services in the fenced off areas shall be submitted to and approved in advance in writing by the Planning Authority, and all trenches shall be dug and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason:

In order to ensure protection of the trees within the application site in the interests of safeguarding the landscape character of the area.