

**REPORT TO:** East Lothian Council

**MEETING DATE:** 23 April 2013

**BY:** Executive Director (Services for Communities)

**SUBJECT:** Planning Application No. 12/00199/PPM – Planning permission in principle for residential development and associated open space, landscaping, tree planting, SUDS pond, development access road, junction improvements, enhancement of pedestrian routes and ancillary works at land west of Aberlady Road, Haddington

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## **1 PURPOSE**

- 1.1 As the area of the application site is greater than 2 hectares and the principle of development is for more than 50 houses, the proposed development is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development. Furthermore the proposed development is significantly contrary to Policies ENV3 and HOU8 of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy DC1 of the adopted East Lothian Local Plan 2008.
- 1.2 Members will recall that a Pre-Determination Hearing for this application was held at the Planning Committee meeting of 09 April 2013. A Pre-Determination Hearing is mandatory where a planning application is made for a major development that is significantly contrary to the development plan.
- 1.3 As amended by Section 14(2) of the Planning etc. (Scotland) Act 2006, the Local Government (Scotland) Act 1973 requires that in cases where a Pre-Determination Hearing is mandatory then the application must be decided by a meeting of the Council. Thus this application is now brought before the Council for a determination.

## **2 RECOMMENDATION**

- 2.1 That planning permission in principle be refused for the following reasons:

1. The new build housing development proposed in principle in this application is not necessary for agriculture, horticulture, forestry or other employment use and thus it is contrary to Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy DC1 of the adopted East Lothian Local Plan 2008.
2. There is no demonstrable need for a grant of planning permission in principle for housing development of the land of the application site to release additional land for house building and in this the proposal is not supported by Policy HOU10 of the approved Edinburgh and the Lothians 2015.
3. In that the land of the application site is greenfield land not allocated for housing development through the adopted East Lothian Local Plan 2008 and is not required to meet strategic housing land allocations, the proposed development is contrary to Policy HOU8 of the approved Edinburgh and the Lothians Structure Plan 2015 and with Scottish Planning Policy: February 2010 on housing land.
4. In that the proposal is contrary to Policies ENV3 and HOU8 of the Structure Plan, they are also contrary to the requirement of Policy HOU10 of the approved Edinburgh and the Lothians Structure Plan 2015 that the bringing forward of any additional land into the already allocated housing land supply by a grant of planning permission will comply with other Structure Plan policies.
5. Development of the site for houses would be contrary to the objectives, proposals and policies of the adopted East Lothian Local Plan 2008 on housing development within and outwith the settlements of East Lothian. It would prejudice the development of allocated strategic housing sites, particularly at Letham Mains in Haddington. In this the principle for housing development of the land of the application site is contrary to Policy HOU3 of the approved Edinburgh and the Lothians Structure Plan 2015 and Proposals H1 to H7 of the adopted East Lothian Local Plan 2008.
6. A housing development of the application site would result in the loss of some 6.4 hectares of prime agricultural land and is not necessary to meet any established need and thus the principle of such development is contrary to Policy DC1 (Part 5) of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

### **3 BACKGROUND**

#### **3.1 Planning Assessment**

The application site consists of 6.4 hectares of land in the East Lothian countryside. It is located immediately to the north of Haddington. The site mainly consists of agricultural land. The agricultural land slopes down, from north to south. The site also includes a length of the A6137 road (Aberlady Road) that is to the east and northeast of the agricultural land.

The site is roughly rectangular in shape. To the north of it is the dual carriageway of the A1 trunk road, beyond which is agricultural land. The adjacent length of the A1 trunk road is at a lower level than the land of the application site. To the east of it is the Peppercraig Quarry Industrial Estate. To the south of it are the residential properties of Haldane Avenue and to the west of it is the Links Veterinary Clinic and a 25 metres wide strip of countryside land, beyond which is the access road which leads from the A199 road to Alderston House, Alderston Coachhouse, Alderston Mains Farm, an office development and some other properties.

Planning permission in principle is sought for the residential development of the application site and for associated works.

A site layout plan submitted with the application shows how 89 residential units might be accommodated within the application site. It also shows how the residential units could consist of 55 detached houses, 10 semi-detached houses, 16 terraced houses and 8 flats and could be laid out on the site with most of the residential units fronting onto an access road that would be formed within the site.

Access could be taken from the A6137 road via a new access to be formed opposite the junction of the A6137 road and the access road serving Peppercraig Quarry Industrial Estate. Additionally it is shown that a footpath could be formed over part of the 25 metres wide strip of countryside land to the west of the site to provide a pedestrian link between the proposed housing site and the access road which leads from the A199 road to Alderston House, Alderston Coachhouse, Alderston Mains Farm, an office development and some other properties.

The site layout plan indicates that a substantial belt of planting could be formed along the northern and north-western parts of the site and a hedgerow interspersed with trees could be formed along the southern boundary of the site, adjacent to the existing rear gardens of the houses of Haldane Avenue. The site layout plan further indicates that two areas of open space, two play areas and a SUDS pond could be provided within the application site.

No illustrative drawings have been submitted with the application to indicate the design of any of the residential units.

An amended site layout plan has been submitted showing:

- (i) revisions to the access and street layout of the proposed housing development;
- (ii) revisions to the indicative positions for some of the residential units;
- (iii) revisions to the indicative landscape proposals and to the layout of the SUDS pond; and
- (iv) the provision of a footpath link between the proposed housing site and the access road which leads from the A199 road to Alderston

House, Alderston Coachhouse, Alderston Mains Farm, an office development and some other properties.

The application is supported by, amongst other things, a pre-application consultation report, a planning statement, a landscape and visual impact assessment, a noise assessment and a transport assessment.

As a statutory requirement of major development type proposals this proposal was the subject of a Proposal of Application Notice (Ref: 11/00009/PAN) and, through that procedure, community consultation prior to the application for planning permission in principle being made to the Council. As a further statutory requirement a report on that pre-application consultation is submitted with this application.

The report informs that over 90 people attended the two pre-application consultation events held in Haddington and the views expressed by those attendees have helped influence the layout of the housing development now proposed.

The planning statement submitted with this application seeks to address the circumstance of the proposed development relative to the development plan and other material considerations. It declares that Policy HOU10 of the approved Edinburgh and the Lothians Structure Plan 2015 is the key determining policy in the consideration of this application in that it provides a planning policy context which allows this site to be considered for development at this time, and in advance of any development plan review.

The planning statement also details the recent planning history of the application site. Whilst the application site has not been subject of any previous planning applications, the development of the site for housing was twice promoted through the local plan process. On both occasions, the Reporter appointed by the Scottish Government did not accept that the site should be developed for housing, primarily on the basis that there was no strategic requirement for the site to be released for housing. In respect of the more recent promotion of the site for housing in 2008, the Reporter considered that the provisions of Policy HOU10 of the approved Edinburgh and the Lothians Structure Plan 2015 would provide a mechanism to address the situation if it should emerge that there could be a shortfall in the effective housing land supply.

The landscape and visual impact assessment considers the landscape character of the site and assesses the visual impact of a residential development of the site.

The noise assessment assesses the noise impact of road traffic using the A1 trunk road on future residents of the proposed housing development.

The Transport Assessment evaluates the traffic impact generated by the proposed development, and examines the accessibility of the development by all modes of transport.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 28 February 2012 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission in principle. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed housing development to be the subject of an EIA.

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 are Policies ENV3 (Development in the Countryside), HOU8 (Development on Greenfield Land) and HOU10 (The Five Year Housing Land Supply) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP17 (Art Works- Percent for Art), DP18 (Transport Assessments and Travel Plans), DP20 (Pedestrians and Cyclists), INF3 (Infrastructure and Facilities Provision), C1 (Minimum Open Space Standard for new General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), H4 (Affordable Housing), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

Also material to the determination of the application is Scottish Planning Policy: February 2010 and the letter from the Scottish Government's Chief Planner to Heads of Planning dated 29 October 2010.

In Paragraph 75 of Scottish Planning Policy it is stated that a supply of effective land for at least 5 years should be maintained at all times to ensure a continuing generous supply of land for house building. Planning authorities should monitor land supply through the annual housing land audit, prepared in conjunction with housing and infrastructure providers. Development plans should identify triggers for the release of future phases of effective sites where a 5 year effective supply is not being maintained.

In Paragraph 84 of Scottish Planning Policy it is stated that the majority of housing land requirements will be met within or adjacent to existing settlements and this approach will help to minimise servicing costs and sustain local schools, shops and services. Authorities should also set out the circumstances in which new housing outwith settlements may be appropriate, particularly in rural areas.

In Paragraph 97 of Scottish Planning Policy it is stated that prime quality agricultural land is a finite national resource on which development should not be permitted unless it is an essential component of the settlement strategy or is necessary to meet an established need, for example for major infrastructure development where no other suitable site is available. When forming the settlement strategy, planning authorities should consider the impact of the various options on prime quality agricultural land and seek to minimise its loss.

The letter from the Chief Planner to Heads of Planning dated 29 October 2010 provides advice on the provision of an effective housing land supply as a result of the changed economic climate. It advises that the concept of 'effective housing land' centres on the question of whether a site can be developed i.e. whether "residential units can be completed and available for occupation". If the circumstances affecting sites means that there is no longer a 5 year supply of effective housing land, the Chief Planner's expectation is that planning authorities will take steps to comply with Scottish Planning Policy: February 2010. The housing land audit can be used to achieve this by identifying sites that are no longer effective and highlighting a need to bring forward new sites. Where a planning authority has a 5 year supply of effective housing land but the impediment to developing that site is the general availability of mortgages or low level of demand from purchasers then there will be little if anything to be gained by releasing additional sites.

9 written representations have been received in respect of this application, all of which raise objection to the principle of the proposed development.

The main grounds of objection are summarised as follows:

- ❖ Proposed vehicular access from the A6137 road (Aberlady Road) would be extremely dangerous;
- ❖ Additional residents from the proposed housing would put even more strain on the infrastructure of Haddington, including local schools;
- ❖ There is no need for additional housing;
- ❖ Proposed development would devalue the objector's property;

- ❖ Proposed development would increase traffic on the surrounding road network;
- ❖ Loss of private views;
- ❖ Loss of privacy and amenity;
- ❖ Proposed development would result in the removal of the existing buffer between the housing of Haldane Avenue and the A1 trunk road;
- ❖ Concerns over flood risk; and
- ❖ The northern part of the site is unsuitable for housing because of noise and noxious fumes from heavy traffic on the A1 trunk road.

The loss of a private view is not a material consideration in the determination of a planning application. Neither is a perceived devaluation of an objector's property.

Haddington Area Community Council recommends refusal of the application on the grounds that the site is in a rural setting and not allocated for housing and that the development at Letham is still active. The Community Council also advise that i) controls must be put in place to ensure that the trees proposed for the northern part of the site are indeed planted and ii) pedestrian access should be catered for, including the widening of pavements and the provision of a pedestrian crossing on the A199 road.

The application site is located in an elevated position, on rising ground to the north of the built-up area of the town of Haddington. The site is visible from the A1 trunk road heading east along the section between the Oaktree Junction and the Abbotsview Junction. Shrub and tree planting on the road embankment provides some screening of the site from that public road.

The site layout plan originally submitted with the planning application indicated that most of the land of the application site would be developed for housing. As it was indicatively shown, the house nearest to the northern boundary of the site would have been positioned only some 10 metres from that boundary of the site. A belt of planting was proposed along the northern and north-western boundaries of the site. As they were indicatively shown, some of the houses proposed for the elevated, north-western part of the site would have been visible from the A1 trunk road. The landscape advice of the Council's Policy and Projects Manager was that the prominence of those houses and the indicative layout of the other houses originally proposed would have been detrimental to the landscape setting and character of Haddington.

In response to those concerns, the applicant submitted a revised site

layout plan. The revised site layout plan indicatively shows a wider belt of planting along the north-western part of the site. Moreover, the houses are now indicatively shown to be set back from the A6137 road, with a landscaped area now proposed for the eastern part of the site.

The landscape advice of the Council's Policy and Projects Manager is that the planting now indicatively proposed for the northern and north-western boundaries of the site would satisfactorily screen the proposed housing from views of the site from the A1 trunk road, would help to satisfactorily integrate the development into its surroundings, and would provide an acceptable landscape setting to the northern edge of Haddington. Moreover the setting back of the houses from the eastern boundary of the site and the provision of a landscaped area over most of the eastern edge of the site would reduce the impact of the development when viewed from the A6137 road to the east. To further reduce the impact of the development from those public views, the two houses indicatively proposed for the northeast part of the site should be single storey in height.

On this landscape consideration, the site could acceptably be developed for housing in the manner indicatively proposed without detriment to the landscape setting and character of Haddington. On this consideration, the principle of the proposed development is consistent with Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

If planning permission in principle is to be granted the details of the siting, design, external appearance of houses and landscaping of and the means of access to the proposed development would be for the subsequent approval of the Planning Authority. It would be through the subsequent determination of such details that planning control would be exercised to ensure that its built form would be fully acceptable, and with due regard to the need to safeguard the character and appearance of the application site.

The Council's Policy and Projects Manager advises that there are large mature trees located to the west of the application site. In order to safeguard those trees, he recommends that the footpath to be formed between the proposed housing site and the access road which leads from the A199 road to Alderston House, Alderston Coach house, Alderston Mains Farm, an office development and some other properties should be designed in accordance with BS5837: 2012 "Trees in relation to design, demolition and construction- Recommendations".

The site lies immediately to the south of the A1 trunk road. As part of the submission the applicants have provided a noise assessment in respect of the potential nuisance that would arise therefrom. The Council's Senior Environmental and Consumer Services Manager has confirmed that subject to double glazing and trickle vents being provided on windows of noise sensitive rooms on elevations facing the A1 trunk road and subject to the construction of the noise attenuation barrier specified in the



applicant's noise assessment, he has no objection to the principles of the proposed development. The noise attenuation barrier would be 4 metres in height and would be formed along the northern end of the site. It could comprise of a 3 metres high acoustic fence atop a 1 metre high earth bund. He recommends that the precise nature and extent of these mitigation measures should be identified by a further noise assessment, which should be submitted to and approved by the Planning Authority.

The Council's Senior Environmental & Consumer Services Manager advises that in principle it would be possible for the 4 metres high acoustic barrier to be located within the wide belt of planting along the northern end of the site. The Council's Policy and Projects Manager advises that this would be satisfactory from a landscape point of view, as in time the acoustic barrier would be screened by the belt of planting.

Subject to the mitigation measures recommended by the Council's Senior Environmental & Consumer Services Manager, future occupants would in principle benefit from a sufficient level of privacy and residential amenity.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

What is shown on the submitted site layout plan illustrates that it would be possible to accommodate a total of 89 residential units on the application site such that units facing southwards towards the existing properties on Haldane Avenue would in their relationship with those properties meet the overlooking separation distances of 9 metres and 18 metres.

The Council's Landscape and Countryside Management Manager is satisfied with the indicative proposals for open space and play area provision. On these considerations, the principle of the proposed development is consistent with Policies C1 and C2 of the adopted East Lothian Local Plan 2008.

The applicant has submitted a transport assessment with their application and on this consideration the proposed development is consistent with Policy DP18 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service has considered the transport assessment submitted by the applicant and agrees with the findings that

the traffic likely to be generated by the proposed housing development of the application site could be satisfactorily accommodated on the local road network. The assessment takes into account the additional traffic that could also be generated by the mixed use development of 750 houses, social and community facilities and associated infrastructure of the adjacent lands of Letham Mains the subject of Proposal H3 of the adopted East Lothian Local Plan 2008.

It is proposed in principle in this application that site access would be directly from the A6137 public road. The Transportation service raises no objection in principle to these proposed access arrangements, subject to the existing 40 miles per hour speed limit being extended northwards on the A6137 road to the northern end of the bridge over the A1 trunk road, and subject to a gateway feature being installed on the A6137 road at the start of the new 40 miles per hour speed limit zone.

The Transportation service confirm that there is no transportation objection to the principle of the proposed development of the application site subject to the imposition of conditions on a grant of planning permission in principle to ensure that appropriate off site road improvement works, including the installation of a signalised pedestrian crossing on the A199 public road, are undertaken, that various identified road safety measures are undertaken, that cycle parking be provided for the proposed flats, that a Green Travel Plan be submitted, that wheel washing facilities be provided during the construction period, and that construction traffic movements be controlled.

With the imposition of conditions to cover the recommendations of the Transportation service the proposed development would, in principle accord with Policies DP20, T1 and T2 of the adopted East Lothian Local Plan 2008.

Transport Scotland raise no objection to the principle of the proposed development, although they recommend that adequate screening should be provided between the housing and the A1 trunk road, that there be no drainage connections to the trunk road drainage system, and that details of any external lighting within the site should be submitted for the approval of the Planning Authority following consultation with Transport Scotland.

The proposed housing development by its scale would have a significant impact on the local environment and thus in accordance with the requirements of Policy DP17 of the adopted East Lothian Local Plan 2008 it should incorporate artwork either as an integral part of the overall design or as a related commission.

The Scottish Environment Protection Agency recommend that a SUDS scheme should be submitted to and approved by the Planning Authority prior to the commencement of any housing development of the application site.

Scottish Water raise no objection to the principle of the proposed development.

The Council's Heritage Officer advises that the site is within an area regarded as having a moderate to high potential for the discovery of archaeological remains. He therefore advises that a programme of works (Archive Assessment and Evaluation) should be carried out at the site by a professional archaeologist. This approach is consistent with Scottish Planning Policy: February 2010, Planning Advice Note 2/2011: Planning and Archaeology and with Policy ENV7 of the adopted East Lothian Local Plan 2008.

The Council's Executive Director (Services for People) informs that the application site is located within the primary school catchment area of Kings Meadow Primary School and the secondary school catchment area of Knox Academy. He advises that Kings Meadow Primary School would have capacity to accommodate children that could arise from the proposed development. However, he also advises that Knox Academy would not have capacity to accommodate children that could arise from the proposed 89 residential units. Thus the Executive Director (Services for People) objects to the application. However, he confirms that he will withdraw this objection if the applicant is required to make a financial contribution to the Council of £314,170 (£3,530 per residential unit) towards the provision of additional accommodation at Knox Academy. This could be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Agreements. Subject to the Council securing the appropriate developer contribution the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan, which stipulates that new housing will only be permitted where the developer makes appropriate provision for infrastructure required as a consequence of their development. This will include funding necessary school capacity. A legal agreement will be used to secure this provision.

The Council's Community Housing and Property Management service advise that a grant of planning permission in principle would require to be subject to a requirement for 25% of all housing units to be developed to be provided as affordable housing through mechanisms to be agreed with the developer. The applicants propose that there be provision of 25% affordable housing. A grant of planning permission in principle for the proposed development could be made subject to an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. This accords with Policy H4 of the adopted East Lothian Local Plan 2008.

Notwithstanding these considerations, the principal material consideration in the determination of this application is whether or not the

principle of the proposed housing development accords with development plan policy and, if not, whether there are material considerations that outweigh the policy presumption against the housing development of the application site.

The land of the application site is defined by Policy DC1 of the adopted East Lothian Local Plan 2008 as being part of the countryside of East Lothian.

The adopted Local Plan does not allocate the land of the application site for residential development.

The principle of new build housing development on the application site must therefore be assessed against national, strategic and local planning policy relating to the control of new build housing development in the countryside.

In paragraph 84 of Scottish Planning Policy: February 2010 it is stated that planning authorities should set out the circumstances in which new housing outwith settlements may be appropriate, particularly in rural areas.

Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 states that development in the countryside will be allowed where it has an operational requirement for such a location that cannot be met on a site within an urban area or land allocated for that purpose, and is compatible with the rural character of the area. Acceptable countryside development will include agriculture, horticulture, forestry and countryside recreation.

Part 1(b) of Policy DC1 only allows for new build housing development in the countryside where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use.

The new build housing development proposed in this application is not necessary for agriculture, horticulture, forestry operations or countryside recreation and thus is contrary to Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 and Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008.

The applicant contends that the proposal should be supported on the ground that there is an insufficiency of allocated, unconstrained housing land to form an effective five year housing land supply in the Lothians and East Lothian. They express the view that a grant of planning permission in principle for the proposed development would contribute towards the five year housing land supply, would therefore comply with Policy HOU10 of the Structure Plan and that Policy HOU10 now provides the planning policy context to allow this site to be considered for

development at this time, and in advance of any development plan review.

Policy HOU10 states that the Lothians Councils will maintain an effective five-year land supply for Edinburgh and the Lothians as a whole by supporting the development of housing land consistent with the strategy, including its requirements for essential infrastructure.

Policy HOU10 also states that the adequacy of the effective land supply will be assessed against annual monitoring reports prepared by the Councils, which shall take account of the annual Lothian Housing Land Audit and assumptions for future windfall development.

Policy HOU10 further states that where a Council's contribution to the effective five-year land supply falls below 90% of its expected contribution and the shortfall in the Lothian-wide housing land supply is also more than 10%, that Council will bring forward additional land. This land will be found within the core development areas. The land will be brought forward by a local plan alteration or, where this is not possible, by granting planning permission in advance of local plan adoption, provided that the proposals comply with other policies of the structure plan.

In respect of their contention, the applicants' planning statement contains data from the Annual Housing Monitor 2010 and excerpts of the report from the Edinburgh and Lothians Structure Plan Joint Liaison Committee dated 22 August 2011.

Since the application was submitted, a 2012 Housing Land Audit for Edinburgh and the Lothians has been produced. This is an assessment of the housing land supply in the area covered by the Edinburgh and the Lothian Structure Plan 2015, as at 31 March 2012.

Without going into the fine detail of this data, the Council does not dispute that housing completions in Edinburgh and the Lothians in the period of the Edinburgh and the Lothians Structure Plan 2015 are markedly lower than anticipated at the time the plan was prepared. With regard to East Lothian the Council accepts the findings of the Housing Land Audits in respect of a lower rate of completions than had been anticipated through development of allocated strategic housing sites.

Whilst the Council recognises that there is a shortfall in housing completions within the anticipated timescales, it does not accept that this is the result of land supply problems or that there is a corresponding need for permitting residential development on unallocated, countryside land or other land on a piecemeal basis. The shortfall has arisen not because insufficient land has been allocated for housing development, but rather that there has been insufficient house building and thereby housing completions on the allocated strategic housing sites and other allocated housing development land.

The significant consideration in this matter is about why the level of completions is insufficient.

On this consideration East Lothian Council, together with the other Edinburgh and Lothians Councils, endorses the position adopted by the Edinburgh and Lothians Structure Plan Joint Liaison Committee that whilst the Edinburgh and Lothians effective five-year housing land supply is below the Structure Plan requirement, it is for infrastructure and marketing reasons rather than a lack of land identified or allocated for housing. The identified shortfall is due particularly to the current economic recession and the lack of availability of mortgage finance such that house builders have been unable to build houses at the completion rates anticipated by the Structure Plan rather than being due to a lack of unconstrained land.

The position of the Structure Plan Joint Liaison Committee is that whilst the Annual Housing Monitor records the shortfall in house completions it does not weigh these against reduction in housing demand. This creates an artificial situation whereby a response to a reduced completion rate caused by a downturn in the market would seem to be to increase the required annual housing completion rate.

Given that the significant reasons for the reduced delivery of housing completions on the allocated strategic housing sites are effectively due to lower consumer demand and consequential lower developer activity there is no logic in the applicants' contention that there is a need to increase the housing land supply. Those particular market circumstances do not provide a justification for the applicant's contention that the housing development of the unallocated land of the application site should be supported contrary to the objectives, proposals and policies of the adopted East Lothian Local Plan 2008 on housing development within and outwith the settlements of East Lothian and which are in accordance with Paragraph 84 of Scottish Planning Policy: February 2010 on the matter of the circumstance in which new housing development is planned for.

In his letter of 29 October 2010 to local authority Heads of Planning the Scottish Government's Chief Planner also endorses this position in the advice given that where a planning authority has a 5 year supply of effective housing land but the impediment to developing that land is the general availability of mortgages or low level of demand from purchasers then there will be little if anything to be gained by releasing additional sites.

This position recognises the context of the shortfall in housing completions, namely that the housing market since the economic crisis of 2008 remains a depressed market, with limited demand for housing. The applicant's contention that the figures for the effective housing land supply support the generality of case for a grant of planning permission

for residential development of a site not allocated for housing development fails to consider the market situation where effective sites are not being developed or are being developed at a relatively slow pace for the simple reason that the house builders are making a proportionate response to market conditions. Ignoring the mechanism of a drop in market demand for new build houses as a change to the viability of the strategic housing land supply would encourage land speculation whilst further endangering the development of allocated housing development sites as planned for in the development plan.

Notwithstanding the above consideration of the effective five year land supply the Structure Plan Joint Liaison Committee recommends measures, which are adopted by East Lothian Council, to encourage house building on strategic housing sites by:

- negotiating with house builders on the phasing of existing allocated sites, along with the timing of infrastructure and developer contributions to spread costs;
- the Councils exploring the potential of the Scottish Futures Trust to 'unlock' investment for infrastructure projects to support house building; and
- supporting appropriate new windfall applications which are in accord with the development plan.

This response has already assisted in the bringing forward of active development of the strategic housing site (450 houses) of Pinkie Mains, Musselburgh (Proposal H4 of the adopted East Lothian Local Plan 2008) and of the strategic housing site (100 houses) of Gilsland, North Berwick (Proposal H6 of the adopted East Lothian Local Plan 2008). In the case of Pinkie Mains the planning permission is for 473 houses and in the case of Gilsland it is for 120 houses. These additional numbers is indicative of how the Council is taking a constructive approach to proposals for strategic housing sites, where there are capacity and substantive urban design justifications to support proposals for increased numbers of houses on strategic housing sites.

Additionally, planning permission in principle is granted for a development of 525 houses on the strategic housing site (500 houses) of Hallhill, Dunbar (Proposal H2 of the adopted East Lothian Local Plan 2008) and approval of matters specified in conditions has recently been granted for the details of a housing development of 126 houses and 72 flats on part of the strategic housing site of Hallhill, Dunbar. Moreover, the Council is presently in discussions over a revised phasing of such a development and of the details of it with the aim of also bringing forward a development of the land.

Furthermore, a large number of local housing sites allocated in the adopted East Lothian Local Plan 2008 have been developed or are being

built out, as evidenced by the current 2012 Housing Land Audit for Edinburgh and the Lothians.

Seeking to fulfil the strategic housing allocations of the Structure Plan in the recognised time period would now entail a level of house building significantly higher even than that achieved in the early period of the Structure Plan when the housing market was buoyant. The current evidence provided by housebuilder activity is that the market would not support this and thus there is no justification for the Council to grant planning permission in principle for a housing development of the application site. The Council's approach is designed to assist in supporting a level of house building which the market can sustain and to protect the objectives, proposals and policies of the adopted East Lothian Local Plan 2008 on housing development within and outwith the settlements of East Lothian that include the town of Haddington.

Given the circumstances of the housing market a grant of planning permission in principle for a housing development of the application site would not only be contrary to the objectives, proposals and policies of the adopted East Lothian Local Plan 2008 on housing development within and outwith the settlements of East Lothian, it could also prejudice the development of the strategic housing development site of Letham Mains, Haddington.

In all of this consideration there is no justification in terms of national or strategic policy or in the Chief Planner's letter of the 29 October 2010 to invoke the provision of Policy HOU10 in order to grant planning permission in principle for housing development of the application site.

Development of the application site for housing would be contrary to the objectives, strategic housing allocations and settlement strategy of the development plan. It could prejudice the development of the strategic housing sites in East Lothian, particularly at Letham Mains in Haddington. In this the proposals are contrary to Policy HOU3 of the approved Edinburgh and the Lothians Structure Plan 2015 and Proposals H1 to H7 of the adopted East Lothian Local Plan 2008.

Even if with regard to Policy HOU10 there was a demonstrable case for the bringing forward of additional land to make up for any shortfall in the five-year land supply then what Policy HOU10 states is that the land will be brought forward by a local plan alteration and only where this is not possible, by granting planning permission in advance of local plan adoption and only provided that the proposals comply with other policies of the Structure Plan.

The proposed use of the land of the application site for housing is contrary to Policy ENV3 of the Structure Plan because there is no operational requirement for such development of that countryside land.



In that the land of the application site is greenfield land, not allocated for development in the Local Plan and not required as strategic housing land, the proposed principle of a housing development of it is also contrary to Policy HOU8 of the Structure Plan 2015, which presumes against new housing development on greenfield sites other than where required for strategic housing allocations or where otherwise identified for housing development through local plans.

Thus the principle of a housing development of the application site is contrary to Policy HOU10 of the approved Edinburgh and the Lothians Structure Plan 2015.

The Council endorses the Structure Plan Joint Liaison Committee's view that any change to the current housing development strategy should be promoted through the development plan process. The Council is currently in the process of preparing for East Lothian a new Local Development Plan and the applicants are making representation through this for the land of the application site to be allocated for housing development. Through this Expression of Interest it is more proper for the applicants to be making their case for the bringing forward of the land of the application site for housing development.

The land of the application site is mostly prime quality agricultural land. Policy DC1 (Part 5) of the adopted East Lothian Local Plan 2008 requires that all developments in the countryside minimise the loss of agricultural land. A housing development of the land would result in the loss of some 6.4 hectares of prime agricultural land, contrary to Policy DC1 (Part 5) and Scottish Planning Policy: February 2010.

#### **4 POLICY IMPLICATIONS**

4.1 None.

#### **5 EQUALITIES IMPACT ASSESSMENT**

5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

#### **6 RESOURCE IMPLICATIONS**

6.1 Financial - None

6.2 Personnel - None

6.3 Other - None

## **7 BACKGROUND PAPERS**

- 7.1 Planning application 12/00199/PPM - Planning permission in principle for residential development and associated open space, landscaping, tree planting, SUDS pond, development access road, junction improvements, enhancement of pedestrian routes and ancillary works at land west of Aberlady Road, Haddington
- 7.2 Adopted East Lothian Local Plan 2008
- 7.3 Approved Edinburgh and the Lothians Structure Plan 2015
- 7.4 Scottish Planning Policy: February 2010
- 7.5 Letter from the Scottish Government's Chief Planner to Heads of Planning dated 29 October 2010.

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<b>DATE</b>	28 March 2012

**NOTE OF PRESENTATIONS MADE TO THE  
PLANNING COMMITTEE ON 9 APRIL 2013 IN RESPECT OF  
THE PRE-DETERMINATION HEARING FOR:**

Planning Application No. 12/00199/PPM: Planning Permission in Principle for residential development and associated open space, landscaping, tree planting, SUDS pond, development access road, junction improvements, enhancement of pedestrian routes and ancillary works at land west of Aberlady Road, Haddington

## **PRESENTATION BY JOHN HANDLEY OF HANDLEY ASSOCIATES (AGENT)**

Agent for Gladedale Estates (applicant). Informed Members that he had been promoting this site for housing for 15 years and that this site had been considered in last 2 Local Plan Public Inquiries (1998 and 2006). He had intended to discuss the housing land supply shortfall however the Committee had heard about this already today in relation to the previous application so he would not repeat those points. He proposed to take Members through some aspects of the report. There were a number of key issues - application site and surroundings, public consultations and planning policies.

### **History of application site**

He outlined the lengthy planning history of this site from the 1990s (when the site was formed following the creation of the Haddington bypass), highlighting the conclusions reached by the Reporter at each of the two Inquiries. At the 1998 Inquiry Haddington was deemed an area of restraint, and, although the Reporter considered the site had benefits it was not allocated for housing. At the 2006 Inquiry the Reporter concluded there was no need for this site to be allocated as Letham Mains would suffice. The Reporter had stated that, in the event of a housing land supply shortfall, Structure Plan Policy HOU10 would be the appropriate means to address the situation. In response to the Reporter's comments from these earlier Inquiries, landscaping at the northern end of the site would now be provided and traffic related matters, including an independent road safety audit, had been addressed along with a visual assessment and provision of a significant landscape buffer to the A1.

### **Report**

Para 3.1 - is infill site, is surrounded by development on all sides. Site is part of built up area of Haddington. An amended layout plan has been submitted. 6.4 hectares, with around 5 acres of landscaping.

Para 3.2 - Policy HOU10 (The Five Year Housing Land Supply of the approved Edinburgh and the Lothians Structure Plan 2015) key policy.

Para 3.3 - consultation responses - all consultees, except Policy & Projects Manager and community council, have no objections. In response to the community council's comments a) not a rural setting, b) Letham development 2002 first identified as housing, still no planning application, not considered by applicants here to be an active site. This application will not affect the delivery of the Letham development; by providing some of the finance (educational contribution) may help deliver Letham.

He made reference to public pre-application consultation events. He stated that only 9 objections were submitted. In response to objections -

*Increase in traffic:* the Council's Transportation service and Transport Scotland both happy with proposal, road safety audit done.

*Infrastructure:* SEPA and Scottish Water raised no objections. In relation to schools the Education department raised no objection.

*Need for additional housing:* feedback from community events some objections however not material planning policy considerations, suggested loss of buffer, enclosing this, also landscaping/tree planting.

*Flood risk:* assessment carried out

*Northern part of site:* not developing along northern part of boundary

## **Conclusion**

All points raised in report addressed. This application can meet all relevant planning policies. It is supported by all technical consultees, only objector Policy & Projects Manager who states this application is premature - clearly do not agree with this view. Policy HOU10 also recently identified by the Reporter as key policy in relation to meeting shortfall in housing land supply.

This application would provide:

- 65 family homes
- 24 affordable houses
- New road
- 2 new play parks
- New gateway entrance to Haddington
- New landscaping
- Significant financial contribution to the expansion of the secondary school

## **QUESTIONS TO AGENT**

**Q** Re comment that educational financial contribution will help Letham development - fundamentally flawed, the Council can only collect developer contributions from this site relative to children arising from this site. Contributions cannot be cross linked to another development - agree flawed argument?

**A** Key issue - has been criticism from the community council that if this development goes ahead this will stall the Letham development, my understanding is that one reason for lack of progress with the Letham development is the educational financial contribution, so if we can help to fund part of the extension to Knox Academy then this may assist with that development.

**Q** Re enclosing the amenity of the northern periphery element/bund issue - would not a fence or dense woodland be more attractive than a bund?

**A** North edge of site under particular scrutiny with regards to landscape perspective, as part of that significant tree planting and landscaping proposed, can also do engineering and ground works and introduce noise reduction measures. Have indicative layout at the moment, keen to get solution re acoustic barrier, if needs bunding as well then will provide this.

## **PRESENTATIONS AGAINST THE APPLICATION**

### **ALISTAIR YOUNG**

Resident of Haldane Avenue for 23 years. The site is a rural setting, is prime agricultural land. The boundary of Haddington is Haldane Avenue. Main concerns outlined.

#### **Location-flood risk/privacy issues**

- Area already gets flooded, filling this area with tar roads and monoblock etc. will bring more flooding issues
- Privacy – due to slope of the land residents of Haldane Avenue will see the whole range of these houses, therefore privacy will be much reduced

#### **Road/traffic**

- Aberlady Road is very dangerous road, fatal accident some years ago, fast traffic 60 to 80mph
- Proposed development is out of town so residents will not walk into town centre but will use cars therefore increase in car use in Haddington
- Additional traffic/additional associated noise

#### **Greenbelt**

- How many greenbelt areas can we afford to lose

#### **Wildlife**

- Area is a great habitat for wildlife, already seen drop in numbers of certain species

He concluded that it would be irresponsible of any committee to make a decision on this application until the impact of the Letham development on the town was experienced.