

REPORT TO: East Lothian Council

MEETING DATE: 23 April 2013

BY: Executive Director (Services for Communities)

SUBJECT: Planning Application No. 12/00680/PPM – Planning permission in principle for residential development at Ferrygate Farm, Dirleton Road, North Berwick

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 Gilsland and at Mains Farm, both in North Berwick. 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 10.3 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 10.3 hectares of land in the East Lothian countryside. It is located immediately to the west of North Berwick. The site consists of agricultural land and a length of a single track road, known as Gasworks Lane, which runs through the site from north to south and which bisects the agricultural land in two, an eastern part and a western part. The eastern part is an enclosed field. The western part forms the northeast part of a larger field. That larger field is bounded to its west by a belt of tree planting. All of the agricultural land is gently

undulating and slopes gradually upwards at its southern end. The site is irregularly shaped. To the north of it is a length of Dirleton Road (the A198 road), a petrol filling station and garage, a small landscaped area and a number of houses. To the east of it are houses, garden ground and a paddock. To the south of it are Williamstone Farm Cottage and Williamstone Steading. Williamstone Steading and Williamstone Farm Cottage are both listed as being of special architectural or historic interest (Category B and Category C(S) respectively). Further to the south of the site is the Edinburgh to North Berwick rail line. To the west of the site is the remainder of the larger field.

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 140 residential units might be accommodated within the application site. It also shows how the residential units could consist of 93 detached houses, 10 semi-detached houses, 25 terraced houses and 12 flats and could be laid out on the site with 31 of the residential units located on the eastern part of the site and the other 109 residential units located on the western part of the site.

Access could be taken from Dirleton Road via a new access to be formed some 20 metres to the west of the petrol filling station and garage on Dirleton Road. Additionally it is shown that a footpath could be formed along the eastern end of the site and could terminate at the southeast end of the application site. The applicant has indicated in their supporting statement that Gasworks Lane would remain connected to Dirleton Road but only pedestrians and cyclists would be able to use it to access the proposed residential development.

The site layout plan indicates that the existing belt of trees to the west of the application site would be enlarged with additional woodland planting. The site layout plan further indicates that a SUDS pond and two areas of open space could be provided within the application site. One of the areas of open space, a park that could be formed in the southeast part of the site, could incorporate natural play elements including landforms, climbing boulders and balancing bridges.

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

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: 11/00010/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 approximately 62 people attended the two pre-application consultation events held in North Berwick and that amendments were made to the pre-application proposals following the consultation events. This included significantly reducing the scale of development in response to public concern.

The planning statement submitted with this application provides background details on the proposals and sets out the key factors that should be taken into account in the determination of the planning application. It declares that there is a very large shortfall in the delivery of new homes to meet Structure Plan requirements and that this proposal would deliver much needed housing, including affordable housing, in the short term.

The landscape and visual impact assessment considers the impact of a residential development of the site on the landscape and visual characteristics of the location and surrounding landscape.

The noise assessment assesses the noise impact of i) road traffic using Dirleton Road, ii) operation of the petrol filling station located on Dirleton Road, and iii) rail traffic using the rail line that is to the south of the site, on future residents of the proposed housing development.

The Transport Assessment examines the current and future transport matters associated with a residential development of the site and evaluates 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 08 May 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.

A total of 26 written representations have been received in respect of this application. Of these 24 make objection to the principle of the proposed development and 1 expresses support for it. The other representor does not state whether they support or object to the proposals.

The main grounds of objection are summarised as follows:

- ❖ Proposal is not supported by the adopted Local Plan as a location for residential development;
- ❖ Additional residents from the proposed housing would put even more strain on the Infrastructure of North Berwick, including local schools;
- ❖ If approved, development would promote ribbon development between North Berwick and Dirleton;
- ❖ The site is prone to flooding;
- ❖ Loss of prime agricultural land;
- ❖ 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;
- ❖ Gradual upsizing of the town's peripheries would take the heart out of the community and would destroy the unique atmosphere of the township;
- ❖ There is insufficient capacity at the North Berwick Treatment Works to accommodate the scale of development proposed;
- ❖ Proposal would ruin the aesthetically pleasing approach into North Berwick from the west; and

- ❖ Granting planning permission in principle could undermine delivery of a committed or allocated site such as Mains Farm, which in turn would prevent delivery of necessary education infrastructure in North Berwick.

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.

The written representation expressing support for the principle of the proposed development is made on the grounds that the proposal would make a positive contribution to the housing stock in North Berwick, that it would provide good access to the west and Edinburgh, and that it would contribute to effecting more reasonable house values in North Berwick.

North Berwick Community Council recommends refusal of the application on the grounds that the proposal would encourage the coalescence of Dirleton and North Berwick and that development in the countryside is contrary to East Lothian's planning policies. The Community Council also advise that i) the housing developments at Mains Farm, Gilsland and Newhouse Farm will greatly contribute towards the accepted housing needs and ii) yet another residential development would prove disastrous to the town's infrastructure and would increase such major problems as parking.

Gullane Area Community Council recommends refusal of the application on the grounds that i) it is a departure from the Local Plan and the area is not zoned for development; ii) it is a development in the countryside; iii) the additional residential units would create problems for the school; iv) the extra traffic would aggravate traffic pollution and the parking situation in North Berwick; v) plans are already in hand to build further units to the south of North Berwick; vi) there can be no justification for ignoring all previous decisions made simply because the current view is that there is a perceived lack of land on which to build; and vii) closure of the gap between Dirleton and North Berwick should be resisted in order to maintain the two separate communities.

As part of the existing area of undeveloped agricultural land between North Berwick and Dirleton the land of the application site, as an area of countryside between them, serves to differentiate one from the other. However the application site forms only a relatively small part of that existing area of undeveloped agricultural land. A housing development of the application site, and thus of a relatively small part of the intervening countryside land between North Berwick and Dirleton, would not compromise the separate forms and identities of those two places. Nor would it result in the coalescence of them. There is no other proposal before the Council at this time for the housing development of any of the other undeveloped agricultural land between North Berwick and Dirleton. It would be for the Planning Authority through the determination of any such future application to decide whether or not the development

proposed in it was acceptable. A grant of planning permission for the housing development now proposed would not prejudice any such future determination(s).

The application site is immediately to the west of part of North Berwick. It has only a small interface with Dirleton Road, and is largely contained to the south of residential properties and the petrol filling station and garage on Dirleton Road. The site is bounded to the east by houses, garden ground and a paddock and to the south by Williamstone Farm Cottage and Williamstone Steading. This existing built form gives the site a degree of containment. Whilst the western part of the site is open and forms part of a larger field, the western part of this field is screened by a young woodland tree belt. As it matures, this tree belt would provide increased screening of the site when approaching North Berwick eastwards along the A198 road. The applicant is proposing to double the width of this tree belt from 20 metres to 40 metres, which in time would further help to integrate the development into its surroundings. The proposed landscaping of the site together with its well contained location means that in principle, the site could acceptably be developed for housing in the manner indicatively proposed without detriment to the landscape setting and character of North Berwick. 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 recommends that a detailed landscape planting plan for the site should be submitted to and approved in advance by the Planning Authority. This should include the provision of a mixed hedgerow, which should be planted along the site's boundary with Dirleton Road. He further recommends that the housing development should be designed in accordance with BS5837: 2012 "Trees in relation to design, demolition and construction-Recommendations".

The noise assessment assesses the noise impact of i) road traffic using Dirleton Road, ii) operation of the petrol filling station located on Dirleton Road, and iii) rail traffic using the rail line that is to the south of the site, on future residents of the proposed housing development. The Council's Senior Environmental & Consumer Services Manager is satisfied that noise from rail traffic and noise from operation of the petrol filling station would not have a harmful impact on the amenity of future occupants of the proposed residential units. However he recommends that some mitigation measures, in the form of acoustic glazing and close boarded

fences, may be required to ensure that residents of houses within the northern part of the site are not affected by traffic noise from Dirleton Road.

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 140 residential units on the application site such that units facing northwards towards the existing properties on Dirleton Road and units facing eastwards towards the existing properties to the east of the site would in their relationship with those properties meet the overlooking separation distances of 9 metres and 18 metres. As they are indicatively shown, some of the proposed units would be within 18 metres of the southern elevations of the houses of Cala Bona, Carolyn and Little Morven, which are located at the southern end of the public road of South Gait. However, through the erection of fencing along the southern boundaries of those properties and through the careful design and layout of those residential units, it should be possible to ensure that the proposed new houses would not result in harmful overlooking of those properties.

The Council's Landscape and Countryside Management Manager is satisfied with the indicative proposals for open space and play area provision. She recommends that the residential development should be phased to ensure that the proposed play area is provided at a reasonably early phase of the development. 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 this planning application. In itself this submission 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 housing development of the lands of Gilsland and Mains Farm, respectively the subject of Proposals H5 and H6 of the adopted East Lothian Local Plan 2008.

It is proposed in principle in this application that site access would be directly from Dirleton Road. Gasworks Lane would be retained for use by pedestrians and cyclists only. 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 westwards on Dirleton Road, to the west of the proposed site access and subject to an independent road safety being undertaken for the proposed site access.

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 the conditions on a grant of planning permission in principle to ensure that appropriate off site road improvement works are undertaken, including the footpath proposed for the southeast end of the site being connected into the existing public footway network on Williamstone Court, to the southeast of the site.

With regard to safe routes to school, the Transportation Assessment concludes that a school crossing patrol should be placed at the junction between Ware Road and Highfield Road. On this matter, the advice of the Council's Transportation service is that the obligation for the applicant should be the payment to the Council of a developer contribution of £15,000 to fund a school crossing patrol for a fixed period of five years. This contribution can be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal Agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements.

The requirement for the developer contribution of £15,000 is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where the developer makes appropriate provision for infrastructure required as a consequence of their development.

It is also recommended by the Transportation service 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.

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 recommends that details of the location and route of the Strathearn Culvert and the field drain is submitted to and approved by the Council and that no built development is located on top of those structures and flood risk is not increased elsewhere.

On the matter of flood risk, the Council's Senior Structures Officer raises no objection to the principle of the proposed development, although he advises that the details of the proposed sustainable urban drainage system (SUDS) should be submitted to and approved by the Council as Planning Authority.

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

In their consultation response, Scottish Water advise that the North Berwick Waste Water Treatment Works (WWTW) currently has capacity for 640 additional household (or household equivalent) connections. Scottish Water are unable to reserve this spare capacity for housing sites that are allocated in the Local Plan but that have not yet received planning permission. Rather, spare capacity is given on a first come first served basis. Already planning permission has been granted for a development of 120 residential units at Gilsland, North Berwick (Refs 12/00338/PM and 12/00339/PM). Moreover, 42 residential units are currently being developed at Lochbridge Road. Planning permission in principle (Ref: 13/00227/PPM) was sought in March 2013 for the development of 420 houses at the strategic housing site of Mains Farm, North Berwick. Therefore, if planning permission in principle were to be granted for the proposed 140 houses on the application site, and if Scottish Water were to give drainage connections for those houses and for those already approved at Gilsland and at Lochbridge Road, then there would not be spare capacity at the WWTW for all of the 420 houses that are proposed at the strategic housing site of Mains Farm. In such circumstance, Scottish Water advise that they would fund an upgrade of the WWTW to ensure that there would be capacity at the WWTW to serve all of the 420 houses that are proposed for the strategic housing site of Mains Farm.

The Council's Heritage Officer advises that the site is within an area regarded as having a moderate to good 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.

Lothian and Borders Police, the Lothian Fire Brigade, the Scottish Ambulance Service and NHS Lothian were all consulted on this planning application.

Neither the Lothian Fire Brigade nor the Scottish Ambulance Service have provided a consultation response.

Lothian & Borders Police raise no objection to the proposed housing. It can be taken from this that they are satisfied that they could accommodate within their existing operations any identified impacts anticipated to arise from the 140 residential units proposed in this application.

NHS Lothian advises that they see a need for capital investment in their General Practice facilities in North Berwick Health Centre. This, they advise, would be to address the increased capacity requirements resulting from the increased population. NHS Lothian therefore requests that the applicant makes a capital contribution towards increasing and improving accommodation at North Berwick Health Centre.

It is for NHS Lothian to demonstrate the need for and the quantum of any contributions towards healthcare provision, all relative to the principles set out in Circular 3/2012: Planning Obligations and Good Neighbour Agreements. No such case has been made in respect of the housing development proposed in this application. In these circumstances it would be unreasonable for the Council as Planning Authority to insist that as a requirement of development of the application site a financial contribution is made towards increasing the capacity of North Berwick Health Centre, as NHS Lothian recommend.

The Council's Executive Director (Services for People) informs that the application site is located within the primary school catchment area of Law Primary School and the secondary school catchment area of North Berwick High School. He advises that neither of those schools would have capacity to accommodate children that could arise from the proposed 140 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 £1,841,560 (£13,154 per residential unit) towards the provision of additional accommodation at Law Primary School and North Berwick High School. Such a developer contribution can be secured by an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Moreover the Executive Director of Services for People recommends that a restriction would need to be placed on the annual completion rates arising from the

proposed development. This can be secured through a condition attached to a grant of planning permission in principle for the proposed development. Subject to the imposition of the recommended condition and to the Council securing the appropriate developer contribution the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where the developer makes appropriate provision for infrastructure required as a consequence of their development and that such provision must be phased in line with the new development required.

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 a very large shortfall in the delivery of new homes to meet the Structure Plan's requirements. 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.

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 sites of Gilsland, North Berwick and Mains Farm, North Berwick.

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 Gilsland and at Mains Farm. 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 10.3 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 12/00680/PPM – Planning permission in principle for residential development at Ferrygate Farm, Dirleton Road, North Berwick

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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DATE	09 April 2012

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

Planning Application No. 12/00680/PPM: Planning permission in principle for residential development at Ferrygate Farm, Dirleton Road, North Berwick

PRESENTATION BY EWAN MACINTYRE OF EMA ARCHITECTS

EMA Architects carried out the indicative design for this development for client Miller Homes. Will focus on design matters.

Key Issues

The development will provide 105 private units and 35 affordable homes, in a woodland/parkland setting. The development will be of an urban design and provide a natural infill to the existing environment. There will be no adverse impact on the character of North Berwick; there will be less impact on the town than from the sites to the south, Gilsland, Newhouse and Mains Farm. A community engagement process was undertaken and a relatively small number of objections submitted. Benefits of the proposal:

- Provide much needed family housing
- 35 affordable homes
- New public park
- Scale of development modest
- Phased in over 7 year period with 8 to 24 new houses occupied every year (devised to ensure no adverse impact on the town)
- Assist with housing shortfall
- Height of buildings limited to 2 storeys
- Traditional streets, with open spaces/trees

Conclusion

East Lothian design policies are some of the best in the country; confident that, in complying with these, the development will be of a high design quality. The site will be effective in terms of transport and utility infrastructure. It will be a sustainable location in an urban infill site.

PRESENTATION BY DAVID MORGAN OF MILLER HOMES (APPLICANT)

Miller Homes is national house builder. This development will provide much needed family housing in East Lothian. There are no technical constraints relating to the site. Miller Homes is quite willing to make the appropriate educational financial contribution. It is unfortunate that the report before Members today does not provide a full planning assessment. This undermines the hearing process and means we cannot provide an informed response to the only significant objection (from the Policy & Projects Manager). This lack of clarity undermines the fairness of this process. Key issues outlined.

Housing Land Supply Shortfall

Assume, maybe wrongly, that the report recommendation will be for refusal as the site is not currently allocated for housing. Our view is that this is not an adequate reason in itself to refuse the application. Members will be aware of the very significant housing shortfall in East Lothian; this application will help rectify that. Over the past 5 years 3,800 homes should have been built across East Lothian - 1,500 were actually built, a shortfall of 60% of the housing need not met. The shortfall over the next 5 years is likely to be at a similar level; this is a crisis situation. The new Development Plan is already significantly delayed. To continue this way is not tenable; permission for new housing needs to be granted now.

Conclusion

Trust that Members will consider these matters very carefully when making a decision. Note that the town of North Berwick is sensitive; however the depth of the housing crisis in East Lothian must be addressed. The proposal will be an asset to the town and is deliverable.

QUESTIONS TO APPLICANT

Q Shortfall – The Council has allocated sites and granted permissions but construction is not yet underway, e.g. Letham Mains (Haddington) or Wallyford developments; is the figure of 60% calculated on that basis?

A Have to consider sites that are deemed effective/deliverable. Sites in one ownership or with no infrastructure restrictions should be preferred.

Q Where do you think people in this proposed development will work?

A May work in East Lothian, or to the south, or within the wider Lothian area.

Q Given the pattern followed by existing house owners, large numbers of residents will travel outwith East Lothian, primarily into Edinburgh; if there is demand for housing in East Lothian then why not place the housing to the west of the county, nearer the main area of employment?

A North Berwick was identified as a core development area in the Development Plan.

Q 105 family homes promised, smaller family homes i.e 3 bedroom houses are needed, not 4/5 bedroom houses – what is your definition of family homes?

A Family homes can range from 2 to 5 bedroom properties.

PRESENTATIONS AGAINST THE APPLICATION

SHEILA SINCLAIR

On behalf of North Berwick Community Council

The community council objects to this planning application - main grounds of objection outlined.

- This site is prime agricultural land
- Not in an area identified for development in the Development Plan
- Will encourage the coalescence of Dirleton and North Berwick
- North Berwick's housing needs are being met at Mains Farm, Gilsland and Newhouse Farm
- Strong feeling in the community that any more development will be seriously detrimental
- Grave concerns about the existing infrastructure and ability to cope with further developments
- Will only increase existing traffic/parking problems

Conclusion

The community council appreciates that growth is necessary but enough is enough.

ROSS DEMPSTER

Key factors - common sense and trust. In 2003 this site at Ferrygate Farm was deemed not to be a suitable site for development; 2103 what had changed? This application, allied with the Mains Farm and Gilsland applications, means there could potentially be almost 700 houses. Key points outlined.

Infrastructure

- Secondary school at 98% capacity
- Primary school at 100% capacity - some children in North Berwick have to travel to school in Gullane
- GP surgery at 110% capacity
- Road network coping with around 2,500 cars
- Planned park and ride development at Dirleton Road

Other issues

- No common sense in this planning application
- Drive for higher profit leads to increasing pressure on amenities
- No evidence that this will increase quality of life for North Berwick residents

Conclusion

- Build houses closer to Edinburgh - where the jobs are located
- Build on brownfield sites first
- Leave valuable arable land of North Berwick for food production

DAVE HOLLOWAY
On behalf of Dirleton Village Association

Chairman of Dirleton Village Association – the Association objects to this application.

- The character and beauty of Dirleton is its discrete nature, it is an isolated community
- This application starts the process of development along the A198
- Petrol filling station currently acts as an effective end to the urban zone
- This application is contrary to the Local Plan, contrary to planning policies

He informed Members that he had previously been employed by the Forth River Purification Board and SEPA and had been involved in the introduction of the Urban Waste Water Treatment Directive. He stated that 20 years ago the North Berwick Treatment Works met the requirements for the population, however the population had grown by 2,000 plus – he used to report to the Scottish Government that the North Berwick Treatment Works served 8,500 people – once the population reached 10,000 a whole new level of treatment needed to be provided. This was a material consideration and, given this, the application was premature.