

REPORT TO: Planning Committee

MEETING DATE: Tuesday 18 June 2013

BY: Executive Director (Services for Communities)

SUBJECT: Application for Planning Permission for Consideration

Note - these applications were called off the Scheme of Delegation List by Councillor Day for the following reason: due to the nature of the proposed substantial departure from the planning permission granted in 2002 (ref: 01/00504) and taking into account the level of public interest, I feel that these applications should be heard before the Planning Committee.

Application No. **13/00004/P**

Proposal Erection of 5 houses, garages and associated works

Location **Kings Cairn (Site 11)**
Archerfield Links
Dirleton
East Lothian

Applicant Caledonian Heritable

Per Aitken Turnbull Architects

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

In November 2002 planning permission (Ref: 01/00504/FUL) was granted to Caledonian Heritable Ltd for the construction of 2 golf courses, the erection of a 245 bedroomed hotel, 50 golf cottages, 100 houses, a golf club house, the use of Archerfield House as a golf club house, the construction of vehicular access from the A198, car parking areas and associated works on land that forms the eastern part of the Archerfield Estate, near Dirleton. The houses were proposed to be erected on two areas of the Archerfield site. 27 houses were proposed to be erected in clearings within a forestry plantation near to the northern end of the site. The remaining 73 houses were proposed to be erected along part of the eastern side of the site, to the immediate west of the existing woodland known as the Common Strip. The principle of 90 of the 100 houses was accepted by the Council as a necessary provision of enabling development to cross-subsidise the restoration of Archerfield House and its designed landscape. The principle of the other 10 houses was accepted by the Council as a necessary provision of enabling development to cross-subsidise the development of the 245 bedroomed hotel.

Development of the 2 golf courses and the restoration of Archerfield House and the Designed Landscape approved by the grant of planning permission 01/00504/FUL are now complete. The golf clubhouse (as approved by the subsequent grant of planning permission 04/01248/FUL) is now built. The golf and leisure use of the eastern side of the Archerfield Estate is operated by the Archerfield Links Golf Club. It also includes a spa facility, a function suite and 9 golf cottages. As well as the 9 golf cottages, customers can stay at other properties that the applicant owns within the Estate; namely Archerfield House, the two Archerfield House pavilions, Marine Villa, Marine Villa Cottage and the Boathouse.

Through plot reconfigurations, planning permission has since been granted for a total of 71 houses to be erected along part of the eastern side of the site, to the immediate west of the existing woodland known as the Common Strip. Most of these houses have since been built. None of the 27 houses approved for the clearings within the forestry plantation near to the northern end of the site have been erected.

Planning permission is now sought by Caledonian Heritable through planning applications 12/00999/P, 12/01000/P, 13/00002/P, 13/00003/P, 13/00004/P, 13/00005/P, 13/00006/P, 13/00007/P, 13/00008/P, 13/00009/P, 13/00010/P, 13/00011/P and 13/00012/P for the erection of a total of 40 houses and 20 flats on land within the Archerfield Estate.

One of the proposed houses (the subject of application 13/00006/P) would be located on land close to Marine Villa, outwith the site of planning permission 01/00504/FUL. All of the other proposed houses and flats would be located in the clearings within the forestry plantation near to the north end of the site.

This application relates to part of the land within the forestry plantation near to the north end of the site. There are a number of trees within and around the application site. It is located immediately to the south of part of the access road that runs through the Archerfield Estate and some 170 metres to the northeast of the junction of the access road and the private driveway that serves the houses of Marine Villa, Marine Villa Cottage and the Boathouse.

The application site is located within the Longniddry - North Berwick coastline Area of Great Landscape Value and within the Archerfield Estate Listed Wildlife Site. It is to the east of the Archerfield Designed Landscape. A public right of way passes some 170 metres to the north of the site. The Firth of Forth Special Protection Area is located some 190 metres to the north of the site.

The White Knowe Cairn, a scheduled ancient monument designated under the Ancient Monuments and Archaeological Areas Act 1979, is located immediately to the east of the application site.

Planning permission is sought for the erection of five houses on the application site.

The five proposed house plots would be positioned to the south of part of the access road that runs through the Archerfield Estate. The five houses would be accessed off that road via a new section of access road that would provide access to each house. Each house would have private side and rear gardens.

The houses would be two storeys in height. Four different house types are proposed. One of the house types would contain 4 bedrooms. The other three house types would contain 5 bedrooms. The houses would each be of a traditional design and would be externally finished in render with timber framed and astragal windows and timber

doors. The roofs of the houses would be clad in slate. One of the properties would have two double garages. The other property would each have a double garage. All of the proposed garages would be finished in materials to match those of the proposed houses. Each house would have its own driveway and parking area.

It is proposed that most of the existing belt of trees along the northern, southern and western edges of the site would be removed to facilitate the development. New areas of tree and shrub planting are also proposed within the site.

The application is supported by, amongst other things, a development supporting statement, a design and access statement, a protected species walkover survey and a tree survey and arboricultural impact assessment.

The development supporting statement informs that the Archerfield Links development has created around 1000 jobs both directly and indirectly. The applicant envisages that if planning permission for the proposed 40 houses and 20 flats is granted then a significant number of additional jobs would become available including 100 full time equivalent jobs during the lengthy construction period. The Archerfield Links development utilises and supports many local businesses and partners both Jewel & Esk College and the Queen Margaret University in developing an East Lothian Hospitality and Tourism Academy. Moreover, it partners Musselburgh Race Course in creating the Festival of Racing and Golf.

The development supporting statement acknowledges that a new hotel has not been provided. This, they say, is because the archaeological remains of a medieval village took up the majority of the land zoned in the site plan docketed to planning permission 01/00504/FUL for the hotel, and Historic Scotland stated categorically that no building was to be allowed on or within the environs of the medieval village. This resulted in there being no suitable area within the Estate to build the hotel for which planning permission had been granted. The applicant has developed other guest accommodation within Archerfield Lodges, Marine Villa, Marine Cottage, the Boathouse and in 9 lodges, which together can accommodate 180 guests. The two golf courses and other tourist facilities that they have developed are award winning and are of great benefit to East Lothian as they promote the assets of East Lothian to a wider audience.

The development supporting statement also informs that the 27 houses plots approved for the northern end of the site by planning permission 01/00504/FUL are no longer marketable in the current depressed residential development sector. Letters from Savills Real Estate and DTZ Real Estate advise that smaller plots are far more likely to create marketable interest.

In their development supporting statement, the applicant informs that like many others they are now under serious pressure to reduce their financial obligations to their bank. They anticipate that approval of the proposed 40 houses and 20 flats will secure the permanent future of Archerfield and will allow them to complete this development without the serious risk of closure. If the proposed 40 houses and 20 flats are approved and sales thereafter begin then the applicant informs that their funders have indicated support to enable them to consider providing further visitor attractions within the Estate.

The design and access statement sets out the design principles that have been applied to the proposed development and sets out access proposals for the proposed development.

The protected species walkover survey does not identify any protected species as being present within the application site.

The tree survey and arboricultural impact assessment assesses existing tree cover within and around the application site and identifies trees for removal and retention. 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). In this regard, the proposed development comprises of the housing development proposed in planning applications 12/00999/P, 12/01000/P, 13/00002/P, 13/00003/P, 13/00004/P, 13/00005/P, 13/00006/P, 13/00007/P, 13/00008/P, 13/00009/P, 13/00010/P, 13/00011/P and 13/00012/P.

Schedule 3 of The Environmental Impact Assessment (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 18 January 2013 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. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed 40 houses and 20 flats 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.

Policies ENV1A (International Natural Heritage Designations), ENV1C (International and National Historic or Built Environment Designations), ENV1D (Regional and Local Natural and Built Environment Interests), ENV1G (Design of New Development) and ENV3 (Development in the Countryside) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies TOUR1 (Archerfield Estate, Dirleton), DC1 (Development in the Countryside and Undeveloped Coast), NH1a (Internationally Protected Areas), NH3 (Important Local Biodiversity Sites), NH4 (Areas of Great Landscape Value), ENV7 (Scheduled Monuments and Archaeological Sites), ENV8 (Gardens and Designed Landscapes), INF3 (Infrastructure and Facilities Provision), DP2 (Design), T2 (General Transport Impact) and DP22 (Private Parking) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are the Scottish Historic Environment Policy: July 2009 and Scottish Planning Policy: February 2010.

It is stated in the Scottish Historic Environment Policy: July 2009 and Scottish Planning Policy: February 2010 that scheduled monuments are of national importance and that they should be preserved in situ and within an appropriate setting. Where works requiring planning permission would affect a scheduled monument, the protection of the monument and its setting are material considerations in the determination of whether or not planning permission should be granted for the proposed development.

Two written representations have been received from the public in respect of this planning application. One of these, which is from the Dirleton Village Association, makes objection to the proposed development and the other representor does not state whether they support or object to the proposals.

The Dirleton Village Association believes that one of the key benefits of the original proposal was the 245 bedroomed hotel, which would bring much needed employment opportunities to the area. It appears to the Association that these new proposals seek to circumvent the restrictions of planning permission 01/00504/FUL, which stated that 10 of the enabling houses could not be erected until the hotel had been completed at least to first floor level. The Association considers that there are alternative sites within the Archerfield Links part of the Archerfield Estate where the hotel could be erected. The Association argue that the rental properties within the Estate are not comparable with provision of a hotel. The Association do not consider the financial situation at Archerfield as being a valid planning consideration. Additionally the Association raises concerns in respect of traffic generation and in respect of the Special Protection Area.

The other written representation raises concern that the dunes of the coastal strip are exposed, as the sea buckthorn was previously stripped away by the Archerfield Estates.

Gullane Area Community Council, a consultee on the application, raise the following concerns:

- a. It is questionable whether the accommodation on the site is sufficient to compensate for the loss of a good quality hotel;
- b. A hotel would bring in much needed employment and consideration should be given to finding another site for it within the complex;
- c. Consideration should be given to the areas of protected environmental interest that border the site; and
- d. The proposed development would generate much higher levels of traffic in this particular area.

The proposed five houses would be wholly contained within the site for the 27 houses that was approved by planning permission 01/00504/FUL.

In their positions the proposed five houses would be sited within the area of land and in relation to the forestry plantation in a not dissimilar manner to the 27 houses approved for this land by the grant of planning permission 01/00504/FUL. The proposed house types would be identical to some of the house types already approved elsewhere within the Archerfield Estate.

The proposed houses would be partially screened from view by both the existing and proposed trees that would be positioned along the boundaries of the application site. By their positioning, layout, height, design and external appearance the proposed houses would be appropriated to their location and well integrated into the landscape in a manner respectful of the physical characteristics of the locality and without being harmfully exposed, intrusive or of an incongruous appearance. They would not be harmful to the integrity of form and layout of the other components of the scheme of development approved by the grant of planning permission 01/00504/FUL. Neither would they be harmful to the landscape character and appearance of the Area of Great Landscape Value.

The other associated works, including the garages, vehicular access, turning and parking areas would not in their relationship with the proposed houses appear incongruous or be harmful to the character and appearance of the area.

Scottish Natural Heritage advise that the footprint, scale and nature of the proposed development is not substantially different from the development already approved by planning permission 01/00504/FUL. Consequently they raise no objection to the proposed houses on landscape and visual impact grounds.

The site is capable of accommodating all of the proposed development including a satisfactory standard of provision of vehicular and pedestrian access and car parking without being an overdevelopment of it or increasing the density of development such that the established character of the area is harmfully altered. Development of the site would not result in any loss of open space important to recreation or amenity requirements.

The applicant's tree survey and arboricultural impact assessment has been considered by the Council's Policy & Projects Manager, who agrees with its findings. He did however raise some concerns that there may be pressure in the future from new residents to change the use to garden ground of the woodland that would adjoin the respective housing plots. Moreover, he requested that further details of the woodland and of the proposed planting be submitted. The further information requested by the Policy & Projects Manager has been submitted.

In respect of the proposed woodland, concern is also raised by the Council's Landscape & Countryside Management Manager in respect of the future potential for new residents to convert the areas of woodland adjoining their house plots to garden ground, and to possibly fell trees and erect fences or other domestic paraphernalia.

The proposed new planting, together with the trees of the forestry plantation that are to be retained, will form a substantial landscaped barrier that in time will help to mitigate the visual impact of the proposed new houses and flats when viewed from the north. It is the applicant's intention that the new planting adjacent to the proposed house plots would be sold with the plots. Purchasers would be made aware by the applicant that the woodland does not form part of the residential curtilage of the property.

To overcome her concerns, the Landscape & Countryside Management Manager recommends that the woodland is not sold to individual purchasers of plots but is instead retained by the applicant. However, such a requirement is unnecessary, as planning permission would be required if a new owner wished to change the use of any part of the woodland to garden ground. It would be through the determination of any such future planning application for the Council as Planning Authority to decide whether or not such a change of use was acceptable. Moreover, it would be possible to require that fences be erected around the proposed areas of garden ground to clearly delineate what is to be garden and what is to be woodland. Moreover, it would be possible to withdraw permitted development rights for the erection of a gate, fence, wall or other means of enclosure within the wooded areas. This would prevent parts of the proposed woodland from being sub-divided. Such requirements could be imposed by way of a conditional grant of planning permission for the proposed houses.

The proposed houses would be positioned within the site such that they would not have an unacceptable impact on the privacy or amenity of any existing residential property or any residential property proposed in planning applications 12/00999/P, 12/01000/P, 13/00002/P, 13/00003/P, 13/00005/P, 13/00006/P, 13/00007/P, 13/00008/P, 13/00009/P, 13/00010/P, 13/00011/P and 13/00012/P. The future occupants of the proposed houses would benefit from an acceptable degree of privacy and amenity.

On all of the foregoing considerations, the proposed development is consistent with Policies ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies NH4, DP2 and Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

The proposed houses would not harm the conservation objectives of the Archerfield Designed Landscape. On this consideration the proposed houses are consistent with

Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy ENV8 of the adopted East Lothian Local Plan 2008.

Historic Scotland, a statutory consultee on this application, are satisfied that the proposed houses would not harm the conservation objectives of the Archerfield Designed Landscape.

Historic Scotland have been consulted on the application since the land to the west of the site forms the White Knowes Cairn, a scheduled ancient monument designated under the Ancient Monuments and Archaeological Areas Act 1979. Historic Scotland are satisfied that the proposed houses would not harm the scheduled ancient monument of White Knowes Cairn or its setting, although they recommend that the scheduled ancient monument is protected during construction works.

The Council's Archaeology Officer raises no objection to the proposed houses, although he also recommends that the scheduled ancient monument is protected during construction works.

On this consideration the proposed houses are consistent with Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015, Policy ENV7 of the adopted East Lothian Local Plan 2008 and with the Scottish Historic Environment Policy: July 2009 and Scottish Planning Policy: February 2010.

The proposed houses would not harm the Archerfield Estate Listed Wildlife Site. On this consideration the proposed houses are consistent with Policy NH3 of the adopted East Lothian Local Plan 2008.

The application site is located in close proximity to the Firth of Forth Special Protection Area, designated for its internationally important populations of wintering and migratory wildfowl and waders. This stretch of the Firth of Forth coastline is relatively undisturbed by walkers and dogs, compared to the much busier Yellowcraig beach to the east of the site. To prevent increased numbers of walkers and dogs from accessing the coastline and potentially affecting the conservation interests of the Special Protection Area, it was a requirement of planning permission 01/00504/FUL that a barrier, consisting of a fence and sea buckthorn, be established and thereafter maintained to prevent direct access between the application site and the coastline to the north of it.

Due to the close proximity of the Special Protection Area, Scottish Natural Heritage advised that, in accordance with the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994, as amended, the Council must complete a Habitats Regulations Appraisal (HRA) prior to determining this planning application. The purpose of a HRA is for the competent authority (who in this case is East Lothian Council) to satisfy itself that there is no likely significant effect on the Special Protection Area. On 09 May 2013 the Council completed a HRA, which concluded that, subject to the barrier being maintained to prevent direct access between the application site and the coastline to the north of it, the proposed development would not have a significant effect on the Special Protection Area. This conclusion is consistent with the advice of Scottish Natural Heritage, who raise no objection to the proposed houses on ecological grounds. On this consideration the proposed houses are consistent with Policy ENV1A of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy NH1a of the adopted East Lothian Local Plan 2008.

In her consultation response to this application, the Council's Landscape and Countryside Management Manager advises that cumulatively, the housing proposed in planning applications 12/00999/P, 12/01000/P, 13/00002/P, 13/00003/P, 13/00004/P,

13/00005/P, 13/00006/P, 13/00007/P, 13/00008/P, 13/00009/P, 13/00010/P, 13/00011/P and 13/00012/P would increase the overall population of Archerfield by over a third and will double the number expected along the coastal edge. In her original consultation response, she requested an annual payment of one third the cost of a Countryside Ranger (the current costs being about £42,000 but variable) to help them manage the effects of this increase of use of Yellowcraig. She stated that the resultant sum would then be invested at Yellowcraig and along the Archerfield coast to maintain the quality of facilities and the overall experience at Yellowcraig. In a subsequent consultation response, the Council's Landscape and Countryside Management Manager advises that she is prepared to negotiate the amount being sought from the applicant.

It is for the Council's Landscape and Countryside Management Manager to demonstrate the need for and the quantum of any contributions, all relative to the principles set out in Circular 3/2012: Planning Obligations and Good Neighbour Agreements. No such case has been made with respect to this planning 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 management of Yellowcraig and the Archerfield Coast, as the Council's Landscape and Countryside Management Manager recommends.

In their design and access statement, the applicant states that walking and cycling are the most effective modes of transport for short trips and offer excellent opportunities for the development to be accessed by non-car modes of transport. The Council's Landscape and Countryside Management Manager notes that there is already an access track that runs along the northern edge of the Archerfield Estate and which would provide pedestrian and cycle access for new residents to Yellowcraigs Beach. She recommends that the access track should be resurfaced and that signage and a gate should be provided, all in accordance with details that should be submitted to and approved in advance by the Planning Authority.

The Council's Transportation service is satisfied that the proposed houses would be safely accessed and that sufficient off street car parking would be provided. They do however recommend that a visibility splay of at least 2.5 metres by 70 metres be provided and thereafter maintained at the proposed access junction of the new access road to serve the 5 houses and the access road that runs through the Archerfield Estate. The Transportation service is also satisfied that the proposed houses would not result in the local road network being put under excessive pressure.

The proposed houses are consistent with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

Scottish Water raise no objection to the proposed five houses.

The Scottish Environment Protection Agency do not object to the proposed development, although they recommend that full details of the finalised SUDS scheme should be submitted for the prior written approval of the Planning Authority, following consultation with SEPA.

This application site and the sites the subject of planning applications 12/00999/P, 12/01000/P, 13/00002/P, 13/00003/P, 13/00005/P, 13/00006/P, 13/00007/P, 13/00008/P, 13/00009/P, 13/00010/P, 13/00011/P and 13/00012/P are within the school catchments of Dirleton Primary School and North Berwick High School. The Executive Director of Services for People advises that an education contribution of £663,649.23 was made in 2007 in respect of the 100 houses approved by the grant of planning

permission 01/00504/FUL. Through plot reconfigurations, planning permission has since been granted for a total of 71 houses to be erected along part of the eastern side of the site, to the immediate west of the existing woodland known as the Common Strip. There remain 29 houses of the originally approved 100 houses that could still be erected. As an education contribution has already been made in respect of those 29 houses, the Executive Director of Services for People raises no objection to 29 of the total of 60 residential units now proposed.

In respect of the additional 31 residential units now proposed, the Executive Director of Services for People advises that Dirleton Primary School would have capacity to accommodate children that could arise from the proposed 31 residential units, based on the phasing of completion of those 31 residential units proposed by the applicant. He recommends that the completion rates of those 31 residential units should be controlled in accordance with the phasing of the development proposed by the applicant.

The Executive Director of Services for People also advises that North Berwick High School would not have capacity to accommodate children that could arise from the additional 31 residential units now proposed. 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 £129,301 (£4,171 per additional residential unit) towards the provision of additional accommodation at North Berwick High School. 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.

Notwithstanding these considerations, the principal material consideration in the determination of this application is whether or not the principle of the proposed houses accords with development plan policy and if not, whether there are material considerations that outweigh any conflict with the development plan.

By being within the Archerfield Estate the application site is covered by Policy TOUR4 (Archerfield Estate, Dirleton) of the adopted East Lothian Local Plan 2008. Policy TOUR4 states that the Council supports the principle of high quality golf based hotel, leisure and recreation development.

The leisure and recreation development that has already been built is fully in compliance with Policy TOUR4, other than it does not contain a hotel.

Other than the one house proposed in planning application 13/00006/P, all of the other 40 houses and 20 flats now proposed would be located in clearings within the forestry plantation near to the northern end of the site. Thus it is proposed that 39 houses and 20 flats would be located in the existing forestry plantation, as a substitute for the houses approved for there by the grant of planning permission 01/00504/FUL.

Through plot reconfigurations, planning permission has since been granted for a total of 71 houses to be erected along part of the eastern side of the site, to the immediate west of the existing woodland known as the Common Strip. Most of these houses have since been built.

There remain 29 houses of the originally approved 100 houses that could still be erected (19 to cross-subsidise the restoration of Archerfield House and its designed landscape and 10 to cross-subsidise the development of the 245 bedroomed hotel).

As Archerfield House and its designed landscape have been restored, there can be no objection in principle to 19 of the 60 residential units now proposed, as the remaining part of the 90 houses cross-subsidising the restoration of Archerfield House and its designed landscape.

The other 10 houses that have still to be built were approved to cross-subsidise the development of the 245 bedroomed hotel.

Condition 2c) of planning permission 01/00504/FUL states that development of the 10 houses shall not commence until the hotel is built to first floor level and thereafter those 10 houses shall not be occupied until the hotel is complete.

Development of the 245 bedroomed hotel has not commenced. Thus those 10 houses cannot be erected at this time. The applicant is not promoting any of the proposed 40 houses and 20 flats to cross-subsidise the development of the 245 bedroomed hotel, as they are no longer proposing to erect a 245 bedroom hotel within the site. Thus, the previous approval of the 10 houses that were to cross-subsidise the development of the 245 bedroomed hotel cannot be taken to support the principle of any of the houses now proposed.

Thus, in terms of the planning history of the site, there can only be support in principle for 19 of the 60 residential units now proposed, those equating to the remaining 19 residential units that were required to cross-subsidise the restoration of Archerfield House and its designed landscape.

The applicant has been made aware of this and has requested that, if planning permission is granted for only some of the proposed 60 residential units, then the Planning Authority approves planning applications 12/00999/P and 12/01000/P, which respectively propose 8 flats and 12 flats. These would be contained within a total of 5 two storey flatted buildings, each one of which would contain 4 flats. Whilst that total of 20 residential units is one more than the 19 units for which there can be no objection in principle to, there is in this particular case a design consideration that outweighs the Council's normal presumption against new build housing development in the countryside. The sites of applications 12/00999/P and 12/01000/P are immediately adjacent to each other and the flatted buildings would all be identical in their appearance to each other. They would therefore essentially be viewed as one development. Essentially the one additional unit gives the proposed flatted development a symmetrical and uniform appearance that would not be possible if only 19 residential units were approved.

What now has to be considered in the determination of this application is whether or not the principle of the other 40 houses to enable a reduction in the applicant's financial obligations to their bank and thus to enable them to continue trading without serious risk of closure accords with Policy DC1 of the adopted East Lothian Local Plan 2008.

It is stated in paragraph 84 of Scottish Planning Policy: February 2010 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 this regard it is stated in paragraph 2.10 of the adopted East Lothian Local Plan 2008 that "East Lothian's countryside and undeveloped coast exhibits little need for regeneration, renewal or action to redress population decline. It is not a remote rural area where a more permissive planning policy approach to new housing in the countryside might be appropriate on these grounds. Rather it is an area where few, if any, locations are more than 1 hours travel time from Edinburgh and, on the whole, is characterised by increasing population and economic growth and a continuing pressure for housing development both within and outwith its towns and villages."

In paragraph 2.11 it is further stated that "For these reasons, and consistent with Structure Plan Policy ENV3, new development, particularly housing, is directed to existing settlements. New development in the countryside is permitted only in the specific circumstances defined in Policy DC1."

The adopted East Lothian Local Plan 2008 does not allocate any of the land of the application site for residential development. Rather, the area of land of the application site proposed for development in this application is defined by Policies TOUR1 and DC1 of the adopted East Lothian Local Plan 2008 as being part of a high quality golf based hotel, leisure and recreation development within the countryside of East Lothian.

Policy TOUR1 does not give any support for the principle of new build housing within the Archerfield Estate. The high quality golf based hotel, leisure and recreation development that Policy TOUR1 supports, has been mostly developed (other than the hotel).

Policy DC1 is very restrictive in its support for new build housing development in the countryside of East Lothian.

Through Part 1(b) of the policy new build housing is only permissible where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use.

The proposed 40 houses are not to meet a direct operational requirement of an agricultural, horticultural, forestry or other employment use at Archerfield and therefore they do not comply with Part 1 (b) of Policy DC1.

Under the provisions of Part 1(c), an element of new build housing development may be acceptable to enable a proposed form of new build development of an employment, tourism or leisure use where the Council is satisfied that (i) the wider public benefits of securing the primary use outweigh the normal policy presumption against new build housing in the countryside, and (ii) the enabling development is essential, it is the minimum necessary to achieve the primary use and it is not a substitute for normal development funding, including borrowing.

The proposed 40 houses are not to enable a form of new build development of an employment, tourism or leisure use being proposed at Archerfield. Therefore, they do not comply with Part 1(c) of Policy DC1.

There is no allowance within Policy DC1 for enabling housing development to enable the continued operation of an existing leisure or business use. The proposed 40 houses are therefore contrary to Policy DC1 of the adopted East Lothian Local Plan 2008.

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.

As no case is made by the applicant that the proposed 40 houses are for a direct operational requirement of an agricultural, horticultural, forestry or other employment use they are contrary to Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015.

The case put forward by the applicant is that without the additional 40 houses now proposed the future of the Golf Club as a viable business is not sustainable.

The fact of the matter is that the primary use of Archerfield Links Golf Club exists. This use includes two golf courses, a spa facility, a function suite, 9 golf cottages and other properties that are rented out as short term accommodation.

The adopted East Lothian Local Plan 2008 does not allow for new housing development in the East Lothian countryside to enable the continuation of an existing business. Even if it did, there is nothing in the applicant's case that demonstrates that such existing use would cease to operate if the additional 40 houses are not approved.

Whilst the Council aims to support existing businesses it should not be at the expense of the protection and enhancement of the environmental quality of our rural areas or the suburbanisation of the Scottish countryside.

In their supporting statement the applicant argues that instead of the proposed 245 bedroom hotel, they have provided properties within the Estate that together provide accommodation for 180 guests. However none of those properties are operated as hotels. It was a 245 bedroom hotel that the Council agreed should be cross-funded by 10 of the enabling houses. Without that justification, those houses should not be supported.

It may be the case that in the current economic climate there is less of a demand for the 27 houses approved for the northern end of the site by planning permission 01/00504/FUL. However this does not provide justification for approving the additional 40 houses. If the applicant does not consider that there is not a market demand for the 27 houses then they could seek planning permission(s) for a substitution of house types.

There are no material considerations to outweigh the normal policy presumption against new build housing in the countryside. Thus the proposed 40 houses, including the houses the subject of this application, are contrary to Policy DC1 of the adopted East Lothian Local Plan 2008 and Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015.

REASON FOR REFUSAL:

- 1 The principle of enabling housing development proposed in this application is not justified under the provisions of and therefore is contrary to Part 1(c) of Policy DC1 of the adopted East Lothian Local Plan 2008 and as there is not otherwise any direct operational requirement for the housing to facilitate an agricultural, horticultural, forestry or other employment use in the countryside of East Lothian the proposal is also contrary to Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008 and Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015.