

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

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*Note - this application was called off the Scheme of Delegation List by Councillor MacKenzie for the following reason: concerns about possible loss of amenity.*

Application No. **13/00247/P**

Proposal Use of land and part change of use of former bakery building to use as a dog day care centre and erection of fencing and gate

Location **Former Fords The Bakers Office/Canteen Building  
Mid Road Industrial Estate  
Prestonpans  
East Lothian  
EH32 9ER**

Applicant Carefree Canines

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

This application relates to a small part of the former Fords the Bakers building, an adjacent area of grassed land on the north side of the building and a small car parking area on the west side of the building that are all within Mid Road Industrial Estate, Prestonpans.

Planning permission is sought for the change of use of the small part of the former Fords the Bakers building and the adjacent area of grassed land on the north side of the building, for use as a dog day care centre. In association with this planning permission is additionally sought for the erection of fencing and a gate.

The small part of the former Fords the Bakers building the subject of this application comprises the majority of its single storey brick built northern component. The area of grassed land of the site, on the north side of the building, would be used as an outdoor exercise area for dogs at the proposed day care centre. It would be some 372 square metres in area. This proposed outdoor exercise area would be enclosed by a 2.4 metre high close boarded timber fence, which would have a 2.4 metre high close boarded timber gate installed on a short part of its northern length. There would remain an area of grassed land between the proposed fence and the access road that serves the industrial

estate. It is additionally stated on the application drawings that the applicant intends to plant a high hedge around the outer perimeter of the proposed fence.

The existing car parking area on the west side of the building would be retained for use for customers of the proposed dog day care centre.

No external alterations are proposed for the part of the former Fords the Bakers building the subject of this application to facilitate its use as the proposed dog day care centre.

By being within Mid Road Industrial Estate the building and land of the application site are covered by Policy BUS1 (Business and General Industrial Allocations) of the adopted East Lothian Local Plan 2008.

Northfield House, a category B listed building, is some 114 metres to the north of the application site, across Mid Road.

The applicant advises in a supporting statement that it is intended to operate the proposed dog day care centre from 8.00am to 6.30pm Monday to Friday and 9.00am to 1.00pm on Saturdays with no operation on Sundays. Use of the outdoor area would not commence until 9.00am. However, the applicant also informs that it is the intention to operate dog training classes until 8.00pm during the week, with use of the outdoor exercise area stopping at 7.00pm. Therefore this effectively means the proposed dog day care centre would operate from 8.00am to 8.00pm Monday to Friday but with use of the outdoor exercise area ceasing at 7.00pm on those days.

The supporting statement continues that dogs attending the proposed day care centre would spend their days circulating through a series of different areas either alone, with other dogs from the same family or (with their owners permission) in small supervised groups. The safety of the dogs attending the facility would remain of the upmost importance and dogs would not be permitted to "free run" in a large pack or group. It is intended to initially seek a license for 25 dogs, with a future goal of having 40 dog places at the proposed day care centre. The applicant advises it is also proposed to have a small specialist dog shop within the dog day care centre.

As a non-material amendment to the application a revised drawing has been submitted showing the extent of the proposed small specialist dog shop area within the building.

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

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

Policies ENV1C (International and National Historic or Built Environment Designations) and ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies BUS1 (Business and General Industrial Locations), ENV3 (Listed Buildings), DP2 (Design), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Sections 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: February 2010.

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

A total of 81 written representations have been received in respect of this planning application. Of these, 76 make objection to the proposed development and 5 express support for it.

The main grounds of objection to the application are that:

- \* dogs barking would lead to noise nuisance and disturbance to nearby residential properties;
- \* the proposed dog day care centre use would lead to increased traffic movement, parking problems and thus be a road safety hazard;
- \* the proposed fencing would be unsightly;
- \* the application site is in an industrial area and is not 'zoned' for a dog day care centre;
- \* the proposed dog day care centre would harm the setting of the listed Northfield House;
- \* it is not clear how dog waste would be disposed;
- \* the proposed dog day care centre would devalue nearby residential properties.

The main grounds of support for the proposed development are:

- \* the proposed dog day care centre would promote employment;
- \* noise generated by use of the proposed dog day care centre would not be an issue;
- \* the proposed dog day care centre would be a great facility for dogs.

The disposal of dog waste is not a material consideration in the determination of this application as such a matter would be controllable through the licensing of the proposed dog day care centre.

The effect of the proposed development on house prices is not a material consideration in the determination of this application

By being within Mid Road Industrial Estate the building and land of the application site are covered by Policy BUS1 of the adopted East Lothian Local Plan 2008. Policy BUS1 stipulates that within areas allocated for business and general industrial use there is support in principle for uses within Use Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Development that does not fall within these classes will not normally be permitted, with the exception of retail activity that is directly related and ancillary to a business or industrial process carried out on the site. Other retailing activity will not be permitted.

The proposed dog day care centre use is a 'sui generis' use. It is not a use falling within Classes 4, 5 and 6 of the Use Classes Order. There is no land allocated through the Local Plan for such a use. Therefore the application falls to be determined on the basis

of the appropriateness and acceptability of siting the proposed use on land allocated for business and general industrial purposes.

The Council's Policy and Projects Manager advises that whilst the proposed use is one which does not fall within Use Classes 4, 5 or 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, the proposed dog day care centre use is one that, due to its potential for noise impacts, lends itself to being located within a business and industrial location rather than for example a predominantly residential area, where the need to safeguard residential amenity is paramount. The Policy and Projects Manager advises that the proposed use is one that is compatible with the existing uses within the industrial estate and he raises no objection to the application.

The Policy and Projects Manager further advises that such a proposed use of this small part of the larger former bakery building and small part of the grassed land of the industrial estate would not prevent the remaining buildings and land of the industrial estate being developed for Classes 4, 5 and 6 of the Use Classes Order for which they are allocated, would not set a damaging precedent for other non Class 4, 5 or 6 uses on land the subject of Policy BUS1 and would not prejudice the purpose and integrity of Policy BUS1.

The proposed dog day care centre use would be restricted to a very small part of the overall area of Mid Road Industrial Estate. In the circumstance of this case, the proposed use of this small part of the former bakery building and land as a dog day care centre is, in principle, an acceptable use of the part of the building and land as an alternative to Class 4, 5 and 6 uses. The proposed dog day care centre use would not be incompatible with the business uses presently operating within Mid Road Industrial Estate and would not prejudice the designation of the industrial estate as a place for Class 4, 5 & 6 uses. The proposed dog day care centre use would create employment that would be beneficial to the economy of East Lothian and would be located in a sustainable location within an existing urban settlement. On these considerations the proposed dog day care centre use does not conflict with Policy BUS1 of the adopted East Lothian Local Plan 2008.

The small amount of space to be used for the specialist dog shop area would, as a retail use, be in association with and ancillary to the principal use of the premises as a dog day care centre. The area of floor space that would be so used is clearly delineated on the application drawings. A condition can be imposed on the grant of planning permission to restrict the retail use to that floor space. Such planning control over the extent of that use would ensure that it be ancillary to the principal dog day care centre use of the building.

The Council's Environmental Protection Manager does not object to the proposals. He advises that if the operation of the part of the building that is to be used as the proposed dog day care centre are restricted to the hours which have been applied for (i.e. between 8.00am and 8.00pm Monday to Friday and 9.00am and 1.00pm on Saturdays) then such use would not be harmful to the amenity of any nearby residential properties.

He recommends that the proposed fence to enclose the outdoor exercise area of the dog day care centre be constructed of close boarded timber fencing with a minimum weight of 12kg/m<sup>2</sup> and that use of that fenced-in area is restricted to that which has been applied for (i.e. between 9.00am and 7.00pm Monday to Friday and 9.00am and 1.00pm on Saturdays). Subject to these measures he advises that use of the outdoor exercise area would not be harmful to the amenity of any nearby residential properties.

Such recommended controls can reasonably be secured as conditions imposed on the grant of planning permission and subject to them the operation of the proposed dog day care centre would not be harmful to the amenity of any nearby residential properties.

The operation of the premises would also be controlled by the Council through its Licensing function. Planning controls should not duplicate the controls available to the Council through other legislation.

The Council's Transportation service raise no objection to the proposals. They advise that it is likely the proposed use of part of the building as a dog day care centre would generate a similar number of vehicle movements as its previous use as part of the larger bakery building. Transportation further advise that the car park on the west side of the building is of an adequate size to serve that proposed new use. Moreover, they advise that the dropping off and picking up of dogs by customers of the proposed dog day care centre is unlikely to happen at once given the hours of operation of it, and are more likely to be staggered through the day as advised in the applicant's supporting statement. As a result of this Transportation are satisfied that the proposed dog day care centre would not cause disruption to or congestion in the surrounding road network, or any parking problems within the industrial estate or surrounding roads. The proposed change of use does not conflict with Policies T2 or DP22 of the adopted East Lothian Local Plan 2008.

The proposed fence and gate, at a height of 2.4m and of a close boarded timber form would be prominently visible structures from within Mid Road Industrial Estate and in views from the public road of Mid Road to the north. However, the applicant intends to plant hedging around the outer perimeter of the proposed fence, and allow it to grow to a height commensurate with that of the proposed fence. This would give a landscape setting to the proposed fence and would act as a green barrier to soften and mitigate against the visual impact of it, and help to frame and visually contain the proposed gate. The hedge would also be seen in the context of the wider area of grassed land alongside which it would be planted. Subject to the planting of such a hedge, which can be made conditional on the grant of planning permission, the proposed fence and gate would not appear as harmfully intrusive or incongruous structures in their setting within the industrial estate.

On the above consideration the proposed dog day care centre is consistent with Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2000 and Policy DP2 of the adopted East Lothian Local Plan 2008.

Northfield House, a category B listed building, is some 114 metres to the north of the application site, across Mid Road. It is almost completely hidden in views from Mid Road because of the amount of visual containment given to it by the presence of the trees and bushes along the length of the south roadside boundary of its curtilage. Therefore the proposed development would not have any visual relationship with that listed building and thus would not have any harmfully imposing effect on its setting.

On this consideration the proposals are not contrary to Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015, Policy ENV3 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: February 2010.

#### CONDITIONS:

- 1 The hours of use of the building of the dog day care centre hereby approved shall be restricted to 8.00am to 8.00pm Monday to Friday and 9.00am to 1.00pm on Saturdays only. The use shall not occur at any other time without the prior approval of the Planning Authority.

The hours of use of the outdoor exercise area of the dog day care centre hereby approved shall be

restricted to 9.00am to 7.00pm Monday to Friday and 9.00am to 1.00pm on Saturdays only. Use of the outdoor exercise area shall not occur at any other time without the prior approval of the Planning Authority.

Reason:

To restrict the hours of operation of the dog day care centre to that applied for and in the interests of safeguarding the amenity of the occupiers of nearby residential properties.

- 2 No use shall be made of the outdoor exercise area of the dog day care centre hereby approved unless and until the 2.4m high close boarded timber fence and gate have been erected in the positions shown for them on the 'Proposed Floor Plan' drawing docketed to this planning permission.

The close boarded timber fence and gate so erected shall have a minimum weight of 12kg/m<sup>2</sup> and shall be constructed such that there are no gaps between the fence boards or between the fence and the ground where they are to be erected. Thereafter the fence and gate so erected and constructed shall be retained in place, unless otherwise approved by the Planning Authority.

Reason:

In the interests of safeguarding the amenity of the occupiers of nearby residential properties.

- 3 On completion of erection of the 2.4m high close boarded timber fence in accordance with condition 2 above a hedge shall be planted along the entire length of its outer perimeter in accordance with details to be submitted to and approved in advance by the Planning Authority. The hedging so planted shall be allowed to grow to and thereafter be maintained at a minimum height of 2.4 metres above ground level where it is to be planted.

Reason:

In the interests of the visual amenity of the area.

- 4 Unless otherwise approved by the Planning Authority, the floor area of the 'Retail Shop Area', as an ancillary use of the dog day care centre hereby approved, shall be limited to that designated to it as shown hatched in orange on the 'Proposed Floor Plan' drawing docketed to this planning permission.

Reason:

In order to retain control over the amount of the retail component of the dog day care centre use to that applied for.

- 5 The existing car park to be used for parking for the dog day care centre use hereby approved as shown on the docketed drawings shall be retained for such parking use, unless otherwise approved by the Planning Authority.

Reason:

In the interests of road safety.

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





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*Note - this application was called off the Scheme of Delegation List by Councillor Goodfellow for the following reason: this application appears to deviate significantly from the outline permission given and has thus raised a number of objections.*

Application No. **12/00957/P**  
Proposal Erection of 1 house and associated works  
Location **Ardmuir  
Broadgait  
Gullane  
East Lothian  
EH31 2DJ**  
Applicant Mr and Mrs Scott and K Marriott  
Per Somner Macdonald Architects  
RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

The application site forms the majority of the rear (north) garden ground of the single storey detached house of Ardmuir, within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. The property of Ardmuir is bounded to the east by the public road of Broadgait Court and to the south by the public road of Middleshot Road. To the west it is bounded by neighbouring residential properties and to the north it is bounded by neighbouring residential properties and a strip of vacant tree covered land.

The existing house of Ardmuir is single storey in height. It is positioned on its plot such that it has garden ground around it, and in particular a large rear garden to the north of it. The house fronts southwards towards the public road of Middleshot Road. The external walls of the house have a painted rendered finish and its pitched and piended roof is clad with red plain clay rosemary tiles. The surrounding houses to the south and west are single storey in height, some with attic accommodation, and those to the north and east are two storey in height. The external walls of most of the existing neighbouring houses

are finished in render and the roofs of most of the houses are clad with interlocking tiles or red plain clay tiles.

On 17th February 2012 planning permission in principle 11/00647/PP was granted for the erection of 1 house on the application site. Condition 3 of that permission sets the following design principles for the house: (i) the house should be no more than 2-storey in height and its roof ridge should be no higher than the height of the highest of the roof ridges of the neighbouring houses of 1 and 2 Broadgait Court to the north of the application site; (ii) the house should be designed with a pitched roof clad with either interlocking tiles or red plain clay tiles and its walls should have a render finish; (iii) the house should have no north, south and west facing ground floor windows within 9 metres of the north, south and west boundaries of the site respectively unless the entire lengths of those boundaries are enclosed by a screen fence or wall of a minimum height of 1.8 metres; (iv) the house should have no west facing first floor windows, including attic and roof windows, that would be within 9 metres of the west boundary of the site unless such windows are obscurely glazed; and (v) the house should have no north or south facing first floor windows, including attic and roof windows, that would be within 9 metres of the north and south boundaries respectively of the site unless such windows are obscurely glazed. Condition 3 also set requirements for the standard of provision of on-site car parking and vehicular access, the trees to be retained on the site and the requirement for the submission of a Tree Constraints Plan.

No subsequent application for the approval of matters specified in conditions has been submitted relative to planning permission in principle 11/00647/PP and the permission remains extant.

In August 2012 an application for full planning permission (Ref: 12/00612/P) was registered for the erection on the application site of 1 house, for the formation of a new vehicular access, for the erection of fencing and gates and for the formation of hardstanding areas to form a driveway and parking area. The scheme of development the subject of planning application 12/00612/P was such that it would have resulted in a harmful loss of privacy and amenity of the occupiers of the neighbouring houses of 2 Broadgait Court to the north and Ardmuir to the south through overlooking, and due to its positioning and form would have appeared dominant and overbearing when viewed from the neighbouring house of 2 Broadgait Court to the north. Consequently, that application was subsequently withdrawn.

Through this application full planning permission is sought for the erection on the application site of 1 house, for the formation of a new vehicular access, for the erection of fencing and gates and for the formation of hardstanding areas to form a driveway and parking area.

The application site measures some 700 square metres in area and is approximately half of the garden ground of Ardmuir. It is comprised of a large roughly rectangular shaped piece of land that is to the north of the existing house of Ardmuir and a narrow strip of land to the west of the house. The north and east boundaries of the large northern part of the site are enclosed by low timber fencing and trees and shrubs. The west boundary of both the large northern part of the site and the narrow southern part of the site are enclosed by a low stone wall. There are tall Cypress trees on the southern half of the west boundary and other dispersed trees on the northern half of the west boundary. There are trees on the eastern side of the northern part of the site. There is no means of enclosure of the south boundary of the site with what would be the retained part of the rear (north) garden of the house of Ardmuir.

The proposed detached house would have two storey and single storey components: the western part of it would be two storey in height and the eastern part of it would be single storey in height. It would be positioned predominantly on the northern half of the site, with its principal (front) elevation facing southwards. The overall footprint of the proposed house would be a roughly 'T' shaped plan form. The two storey western part of it would include an integral single garage.

The external walls of the house would be finished with a painted wet dash render with a cast stone blockwork base course. It would have a predominantly dual pitched roof clad with natural slates. However, some parts of its roof would have a flat roofed form. A first floor level balcony with a glazed balustrade would extend along part of the south elevation of the house. The frames of its external doors and windows and the external doors would be of factory coated aluminium construction.

There would be garden ground to the south and east of the house and narrow strips of land between it and the north and west boundaries of the site.

It is proposed that the vehicular access to the proposed new house plot would be taken from Middleshot Road/Broadgait via a driveway that would be formed on the narrow southern part of the site to the west of the house of Ardmuir. Three on-site parking spaces would be provided within the proposed new house plot, to the south of the western part of the house. New 1.8 metres high timber gates would be installed across the proposed driveway some 4.0 metres back from the rear edge of the public footpath at the new vehicular access.

A new 1.8 metres high timber fence would enclose the east side of the driveway and the south boundary of the site with what would remain of the garden of the existing house of Ardmuir. The existing timber fencing along the north boundary of the site and the east roadside boundary of the site with Broadgait Court would be replaced with a new 1.8 metres high timber fence.

Since the application was first registered an amended drawing has been received, which shows the extent of a visibility splay at the proposed new vehicular access.

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.

The proposed development would be infill housing development on part of an existing garden within the urban area of Gullane. On this matter there are no policies of the approved Edinburgh and the Lothians Structure Plan 2015 relevant to the determination of the application.

Policy ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DP7 (Infill, Backland and Garden Ground Development), DP2 (Design), DP14 (Trees on or adjacent to Development Sites), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application is the Scottish Government's policy on infill housing development given in Scottish Planning Policy: February 2010 and Planning Advice Note 67: Housing Quality.

In paragraph 82 of Scottish Planning Policy it is stated that infill sites within existing settlements can often make a useful contribution to the supply of housing land. Proposals for infill sites should respect the scale, form and density of the surroundings and enhance the character and amenity of the community. The individual and cumulative effects of infill development should be sustainable in relation to social, economic, transport and other relevant physical infrastructure and should not lead to over development.

Planning Advice Note 67: Housing Quality explains how Designing Places should be applied to new housing. In PAN 67 it is stated that the planning process has an essential role to play in ensuring that: (i) the design of new housing reflects a full understanding of its context - in terms of both its physical location and market conditions, (ii) the design of new housing reinforces local and Scottish identity, and (iii) new housing is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful attention to detailed aspects of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing should take account of the wider context and be integrated into its wider neighbourhood. The quality of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not only to setting and layout and its setting, but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

Nine written representations to the application have been received. All of the representations raise objections to the proposed development. The grounds of objection as summarised are:

- i. the proposed house would allow for overlooking and a loss of privacy to neighbouring properties;
- ii. the proposed house would lead to a loss of sunlight to neighbouring properties;
- iii. the proposed house would be out of scale with other buildings and houses, would appear dominant and overbearing and would be an over development of the site;
- iv. the proposed house would be too close to the northern boundary of the site;
- v. the position, height and design of the proposed house would not be in keeping with the surrounding properties;
- vi. trees would have to be removed from the site to facilitate the development of it and this would have a harmful impact on the character of the area;
- vii. construction activity would lead to considerable inconvenience, noise and mess for the occupiers of neighbouring properties and would be a road safety hazard;
- viii. the proposed development would result in a reduction in value of neighbouring properties;
- ix. the development of a house on the application site would be harmful to the view from neighbouring properties; and
- x. the grassed area of land outwith the site to the east is maintained by Broadgait North

Proprietors Association and should not be used for vehicular access or the storage of materials and equipment.

Neither the loss of a view from a neighbouring property nor the impact on the value of existing properties is a material planning consideration in the determination of an application for planning permission.

The application does not include proposals to use the grassed area of land that is outwith the application site to the east for access or the storage of materials and equipment. In any event such matter would be a civil matter between the applicant and the owner of that area of land and is not a material planning consideration in the determination of an application for planning permission.

Gullane Area Community Council, as a statutory consultee, raise objection to the size of the proposed house and raise concerns about the impact of the additional traffic movements associated with the proposed house.

The application site is not allocated for residential development in the adopted East Lothian Local Plan 2008. It is within a predominantly residential area as defined by Policy ENV1 of the Local Plan. Policy ENV1 does not actively promote the development of land for new build residential development. The principal purpose of Policy ENV1 is to ensure that the predominantly residential character and amenity of existing housing areas is safeguarded from the adverse impacts of uses other than housing. However, Policy ENV1 does state that proposals for new development will be assessed against appropriate local plan policies, which in the case of infill, backland and garden ground development is Policy DP7 of the adopted East Lothian Local Plan 2008.

The proposed new house plot is part of the garden of an existing house. It is within a predominantly residential area and is surrounded by residential properties. The erection of a house on the site would amount to urban infill housing development. Through the grant of planning permission in principle 11/00647/PP the principle has been established of a single house as infill development of this site. Therefore, in the determination of this application there can be no objection in principle to the erection of a house on the site, which is supported by current Scottish Government planning policy guidance on urban infill housing development given in Scottish Planning Policy and by Policy DP7 of the adopted East Lothian Local Plan 2008.

Thereafter, with regard to national, strategic and local planning policy and guidance and other material considerations, the consideration in this case is whether or not, the proposed new house would have an adverse impact on the character and amenity of the area, including the amenity of neighbouring residential properties and whether or not such a new house could be acceptably accessed.

The proposed new house plot is in an area of established residential use. It is part of the garden of the existing house of Ardmuir. The area is generally characterised by houses of various architectural designs. They vary in height between single storey and two storey. The houses neighbouring the site to the south and west are predominantly single storey in height, some with attic accommodation in their roof space, whilst those to the north and east are predominantly two storey in height. The houses of the area are generally moderate in size with moderate sized gardens. They do not display any distinct single form of pattern and density of layout.

The houses to the east and north of the site that front onto Broadgait Court generally have a distinct building line with that road and a distinct streetscape form. However,

some of those houses present their frontages to the road whilst others present side gable elevations.

The external walls of most of the existing neighbouring houses are finished in render and the roofs of most of the houses are clad with interlocking tiles or red plain clay tiles. However, at a greater distance to the southeast on Broadgait there are buildings whose external walls are finished with natural stone and whose roofs are clad with natural slate.

In all of this the ratio of built form to undeveloped garden ground of the properties in the area varies and consequently the area displays a mixed pattern and density of built form. It is within this wider context that the appropriateness of the proposed house has also to be assessed.

Through the grant of planning permission in principle 11/00647/PP it was established that there is no uniform architectural style or pattern or density of development in this part of Gullane and therefore it was not necessary to seek to control the specific positioning or alignment of a house built on the site relative to Broadgait Court or to its other surroundings.

The application site would not be accessed from Broadgait Court but would be accessed from Middleshot Road/Broadgait to the south, allowing retention of the existing trees at the east boundary of the site with Broadgait Court. In retaining those trees the house plot when seen from Broadgait Court would retain the appearance of a rear garden. Through such screening on its eastern side and by its further containment on its north, south and west sides by the neighbouring properties and by the trees within their gardens and on the vacant strip of treed land to the north, the house plot does not present a strong presence to either Middleshot Road/Broadgait or Broadgait Court. It has somewhat of an appearance of a backland site.

In the context of this, although in its position on the main northern part of the site none of the elevation walls of the proposed house would be positioned in alignment with the front elevation walls of the houses of either Middleshot Road/Broadgait or Broadgait Court the proposed house would not, in such position, be harmful to the pattern of the built form of the area.

Moreover the ratio of built form to garden ground of the proposed house, at some 35% of the site, would not be significantly different from the ratio of built form to garden ground of other properties in the area. Furthermore, although the proposed house would be of a greater massing than the neighbouring houses it would be seen in the context of its almost backland location, positioned as it would be set back from Middleshot Road/Broadgait and Broadgait Court and screened as it would be by the trees along the east side of the site. It would be seen in short duration views from the public road of Middleshot Road/Broadgait in the gap between the existing houses of 30 Middleshot Road and Ardmuir. However, in such views it would be set well back from Middleshot Road/Broadgait and would be viewed against the backdrop of the trees that are on the strip of land to the north of the site and in the garden of the house of 38 Middleshot Road to the west. In such context the proposed house would not appear dominant and intrusive within the streetscape and would not be harmful to the character and appearance of the area. The erection of the proposed house on the northern part of the site would not harmfully change the disparate pattern of layout and of the mixed density of the built form of the surrounding area.

One of the design principles of planning permission in principle 11/00647/PP is that a house built on the site should be no higher than the height of the highest of the roof

ridges of the neighbouring houses of 1 and 2 Broadgait Court to the north of the application site.

At some 7.2 metres in height the highest part of the roof ridge of the two storey component of the proposed house would be some 600mm higher than the roof ridges of the neighbouring houses of 1 and 2 Broadgait Court to the north of the site. However, due to the two storey part of the proposed house being positioned on the western side of the site and the containment afforded to the site by the trees that are on the eastern side of the site, such small amount of additional height would not be readily discernible in the streetscape. The proposed house, by its two storey and single storey heights, would fit comfortably with the varied heights of the buildings in the surrounding area. It would not appear dominant or intrusive within the streetscape, and would not be harmful to the character and appearance of the area.

The proposed detached house would add further variety, in a complementary fashion, to the varied architectural styles of the buildings of the area. It would be finished externally in materials to match the palette of external finishes of buildings in the area. In its contained position on the northern part of the site the proposed house would not be prominent or obtrusive. It would sit comfortably with the mixed architecture and finishes of the neighbouring buildings and would not be harmful to the character and appearance of the area.

In all of these considerations the proposed house, by its size, height, proportions, positioning and external finishes, and by its relationship with its surroundings, including the built forms and layouts of the neighbouring buildings, would not appear dominant or intrusive, would not be an incongruous addition to the pattern and density of the built form of this part of Gullane and would not be harmful to the character and appearance of the area.

The proposed hardstanding areas in the form of the driveway and parking area to be formed to the south side of the proposed house would provide off-street parking spaces for at least three cars and a turning area. These hardstanding areas, in their relationship with the proposed house, would not be untypical features for the garden of the house. Other than from the point of access to the site from Middleshot Road/Broadgait they would not be seen.

The roadside boundary enclosures of Middleshot Road/Broadgait are of varied forms and in heights and include hedging and timber fencing. In their position set back some 4.0 metres from the back edge of the public footpath on the north side of Middleshot Road/Broadgait the proposed 1.8 metres high timber gates to be erected across the proposed driveway would not appear dominant and intrusive within the streetscape and would be in keeping with their setting.

The new 1.8 metres high timber screen fences to be erected along the east side of the driveway and the south boundary of the site with the retained garden of Ardmuir, along the east roadside boundary with Broadgait Court and along the north boundary of the site, would be in keeping with other boundary enclosures between properties and along roadside frontages in the area and thus would be in keeping with their setting.

All of this development would not in its place and in association with the proposed house be harmful to the character and appearance of the area.

There is sufficient land within the site to accommodate the proposed house, with a sufficient sized garden and adequate parking provision and vehicular and pedestrian

access without there being an overdevelopment of it. Development of the site would not result in any loss of open space important to recreation or amenity requirements.

On these matters of design, layout and density of development the proposed development does not conflict with Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies DP2 and DP7 of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010 and Planning Advice Note 67: Housing Quality.

Policies DP2 and DP7 require, amongst other considerations, that new development should not result in any significant loss of amenity, including daylight, sunlight or privacy to adjoining properties.

In its position the west elevation wall of the two storey part of the proposed house would be, at its closest, some 1.4 metres away from the west boundary of the site. However, the house of 38 Middleshot Road that is to the west of the house plot and thus to the west of the proposed house is some 30 metres away from the west boundary of the site. Furthermore there are a number of large trees and shrubs at the eastern end of the garden of the house of 38 Middleshot Road, which provide screening between that property and the proposed house. Consequently the proposed house would not have a harmfully overbearing affect on the house and garden of 38 Middleshot Road.

The 14.5 metres length of the north elevation wall of the two storey part of the proposed house would be a minimum of some 1.1 metres and a maximum of some 2.2 metres away from the north boundary of the site with the rear garden of the house of 2 Broadgait Court, and the north elevation wall of the single storey part of the proposed house would be some 1.4 metres away from the north boundary of the site with the rear garden of the house of 2 Broadgait Court, increasing to some 2.2 metres at its eastern end. The rear garden of the house of 2 Broadgait Court is some 11 metres long. Due to its positioning on the western side of the site the bulk of the length of the two storey part of the proposed house, some 11.5 metres of it, would be positioned adjacent to the treed area of land that is to the north of the site. Only some 3.0 metres of its length would be positioned adjacent to the boundary of the site with the rear garden of the house of 2 Broadgait Court. Thereafter, the north elevation wall of the single storey part of the proposed house would be positioned adjacent to the boundary with that rear garden. Part of the single storey component of the proposed house would have a flat roof and part of it would have a pitched and piended roof.

Only the upper parts of the walls and the pitched and piended roof of the single storey component of the proposed house would be visible above the new 1.8 metres high timber fencing that is proposed to be erected along the north boundary of the site. Only a short 3 metres length of the two storey part of the proposed house would be in close proximity to the north boundary of the site with the garden of the house of 2 Broadgait Court. Only the single storey component of the proposed house would be visible from the garden of that neighbouring house above the new north boundary fencing. Moreover the pitched and piended roof of that single storey component would slope away from the north boundary. In all of this the proposed house would not have a harmfully overbearing affect on the house and garden of 2 Broadgait Court.

Nor would the proposed house so designed and positioned within the site be harmfully overbearing to the house and garden of Ardmuir.

On the matter of the impact of the proposed house on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair.



In its position and due to its orientation the proposed house would not have a harmful impact on the daylight received by the house of Ardmuir to the south of the site or the houses of 1 and 2 Broadgait Court to the north.

On the matter of sunlight, the proposed house, by virtue of its position and orientation would not result in any overshadowing of the garden of the house of Ardmuir to the south of the site. It would however result in some overshadowing of the gardens of the houses of 1 and 2 Broadgait Court to the north. However, that overshadowing would not be such that it would result in more than two-fifths of those garden areas being overshadowed for the whole of the day. Thus, it would not result in a harmful loss of sunlight to those neighbouring gardens.

By virtue of its height, positioning, orientation and distance away from the neighbouring properties, the proposed house would not, in accordance with the guidance given in "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair, cause harmful loss of daylight or sunlight to the neighbouring residential properties and therefore would not have a harmful affect on the residential amenity of those properties. The proposed house would also receive a sufficient amount of daylight (skylight) and its garden a sufficient amount of sunlight to give sufficient amenity to the property.

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.

The proposed house would be positioned between 1.1 and 2.2 metres away from the north boundary of the site. Only first floor windows and roof windows are proposed to be formed in that elevation. Those windows and roof windows would be positioned towards the west end of the north elevation of the proposed house. In their positioning they would face towards the treed area of land that is to the north of the site and would not be within 9 metres of the garden of any neighbouring residential property to the north. Nor would they be within 18 metres of any directly facing windows of any neighbouring houses to the north. Therefore, those windows and roof windows would not allow for any harmful overlooking of any neighbouring residential properties to the north.

The ground and first floor windows and glazed doors of the east elevation walls of the proposed house would face towards the garden of the proposed house and beyond that the public road of Broadgait Court. They would not be within 9 metres of the garden of any neighbouring residential property to the east and would not be within 18 metres of any directly facing windows of any neighbouring houses to the east. Thus, they would not allow for any harmful overlooking of any neighbouring residential properties to the east.

The windows of the south elevation wall of the single storey part of the proposed house would be 9 metres away from the south boundary of the site with what would remain of the garden of the house of Ardmuir but would be less than 18 metres away from directly facing windows of the north elevation of the house of Ardmuir. The new 1.8 metres high timber screen fence to be erected along the south boundary of the site with what would remain of the garden of the house of Ardmuir would prevent any harmful overlooking between those directly facing windows.

The ground and first floor windows and glazed doors of the south elevation wall of the two storey part of the proposed house would be 9 metres away from the south boundary of the site with the retained garden of Ardmuir and they would not be within 18 metres of any directly facing windows of that house. Thus they would not allow for any harmful overlooking of the house and garden of Ardmuir to the south.

The balcony of the south elevation wall of the two storey part of the proposed house would be 9 metres away from the south boundary of the site with what would remain of the garden of the house of Ardmuir and would not be within 18 metres of any directly facing windows of that house. Thus it would not allow for any harmful overlooking of the house and garden of Ardmuir to the south.

The west elevation of the two storey component of the proposed house would be some 1.4 metres away from the west boundary of the site. It is not proposed to have windows or doors in that elevation wall. The ground and first floor windows of the other part of the west elevation of the two storey component of the proposed house would be more than 9 metres away from the west boundary of the site with the gardens of the houses of 30 and 38 Middleshot Road. None of those windows would be within 18 metres of any directly facing windows of those neighbouring houses to the west. Thus, there would be no harmful overlooking of any neighbouring residential properties to the west.

Further windows or other openings could be formed at ground floor and first floor level on the north, south and west elevations of the proposed house at a later date with permitted development rights and thus without the need for planning permission. If formed at ground floor level in the north and south elevation walls the 1.8 metres high timber screen fencing to be erected along those boundaries would prevent any harmful overlooking of the neighbouring houses and gardens. However, if formed at first floor level in the north and south elevation walls or at ground or first floor levels in the west elevation wall they could cause harmful overlooking of the neighbouring properties respectively to the north, south and west. Accordingly conditions should be imposed on a grant of planning permission to withdraw those permitted development rights in order to protect the residential privacy and amenity of the neighbouring residential properties to the north, south and west.

In these circumstances the proposed house would not have a detrimental impact on the privacy and amenity of any neighbouring residential properties as a consequence of overshadowing and overlooking. The occupiers of the proposed house would also have sufficient privacy and residential amenity.

The existing house of Ardmuir would retain sufficient garden and parking space of its own.

On the above consideration of residential amenity, including the matters of overlooking and overshadowing the proposed development is consistent with Policies DP2 and DP7 of the adopted East Lothian Local Plan 2008.

Through the grant of planning permission in principle 11/00647/PP the removal of a row of tall Cypress trees on the western side of the narrow southern part of the application site was accepted, along with the removal of the large Larch tree close to part of the north boundary of the main northern part of the site and the Eucalyptus tree that is on the west boundary of the site at the northern end of the row of Cypress trees. The other trees on the application site were to be retained.

What is now proposed is the removal of all of the trees of the application site with the exception of the row of trees along the east side of the site.

The Council's Policy and Projects Manager again raises no landscape objection to the removal of the row of tall Cypress trees on the western side of the narrow southern part of the application site, the Larch tree close to part of the north boundary of the main northern part of the site and the Eucalyptus tree that is on the west boundary of the site at the northern end of the row of Cypress trees.

The Council's Policy and Projects Manager advises that the row of trees on the east side of the site is of significant value in the streetscape and should be retained. The Policy and Projects Manager is satisfied that the proposed development would not have a harmful impact on these trees. However, to safeguard them they should be protected during construction. This can be secured through a condition attached to the grant of planning permission.

The Council's Policy and Projects Manager further advises that the remaining trees on the west/northwest part of the site are of reasonable quality and could add to and improve the integration of a house positioned on the site into its setting. The Policy and Projects Manager comments that those trees are not significant in the context of the site remaining as garden ground for the house of Ardmuir, but that they become significant when considered as part of the development of the site, as the retention of those trees would give a mature landscape setting to a new house on the site. The Policy and Projects Manager further comments that if additional trees are required to be removed to facilitate vehicular access to the site this would be acceptable subject to replacement tree planting being carried out on the site in positions as close as possible to the positions of the removed trees however otherwise the trees on the west/northwest part of the site should be retained.

The trees on the west/northwest part of the site, that the Policy and Projects Manager recommends should be retained to provide a mature landscape setting for the proposed house, are themselves seen against the backdrop of the other large trees that are in the garden of the house of 38 Middleshot Road to the west and on the treed strip of land to the north of the site. In such context the removal of these trees from the west/northwest part of the site would not be readily perceived in the streetscape. Furthermore, as set out in the assessment above the proposed house would be set well back from Middleshot Road/Broadgait and would be screened from Broadgait Court by the trees that are to be retained on the eastern side of the site. In the short duration views of it from Middleshot Road/Broadgait it would be viewed against the backdrop of the trees that are on the strip of land to the north of the site and in the garden of the house of 38 Middleshot Road to the west and would not appear harmfully dominant or intrusive within the streetscape.

Accordingly, and subject to the aforementioned tree safeguard controls for the retained trees on the east side of the site the proposed development would not have a harmful impact on the landscape character of the area and thus would not be contrary to Policy DP14 of the adopted East Lothian Local Plan 2008.

The application drawings show two new trees proposed to be planted on the narrow strip of land between the north elevation wall of the proposed house and the north boundary of the site. On this matter the Policy and Projects Manager advises that there are limited species of tree that would be viable in such a confined position where there is little ground to allow tree roots to establish. Any trees planted in this location would be likely to be suppressed by both limited root space and reduced daylight, and would be likely to cause future problems as they mature when their branches may damage the fabric of the proposed house. Thus it would not be reasonable to require such tree planting by a condition on the grant of planning permission.

The Council's Environmental Protection Manager raises no objection to the proposed development.

The type of development proposed in this application is not uncommon within a residential area and there would be nothing extraordinary in the construction works to be carried out that would justify the Planning Authority exercising planning control over matters of construction noise and hours of working. Any matters of alleged nuisance to neighbours from the construction works that would be carried out would be for the Council's Environmental Protection service to investigate under separate environmental protection legislation.

It is proposed that the vehicular access to the proposed new house plot would be taken from Middleshot Road/Broadgait via a driveway that would be formed along the narrow southern part of the application site that is to the west of the house of Ardmuir. Three on-site parking spaces would be provided within the proposed new house plot, in a position to the south of the house.

The Council's Transportation service advises that: (i) the first 2 metres of the driveway should be hard surfaced to prevent loose materials entering the public road; (ii) the gates should open into the property and should not open out onto the public road or footpath; and (iii) the vehicular access should have a minimum visibility splay of at least 2 metres by 20 metres in both directions so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface. Subject to these controls Transportation is satisfied that the proposed house could be safely accessed. Transportation is also satisfied that the proposed arrangements for parking and turning are of an acceptable standard. All of these transportation requirements can be secured through conditions attached to the grant of planning permission. Accordingly on these considerations the proposed development does not conflict with Policies T2 and DP22 of the adopted East Lothian Local plan 2008.

Scottish Water has been consulted on the application but no response has been received. However, it can be noted that they raised no objection to the grant of planning permission in principle 11/00647/PP.

#### CONDITIONS:

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

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

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

Reason:

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

- 2 Prior to the house hereby approved being brought into use the proposed vehicle access, turning and parking arrangements shall be laid out as shown in docketed drawing no. 1159-02-RevD and thereafter the access, turning and parking areas shall be retained for such uses.

The driveway access with the public road shall have a minimum visibility splay of at least 2.0 metres by 20.0 metres to the west and to the east so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface, and that visibility splay shall be maintained thereafter.

Prior to any use being made of the driveway access hereby approved the first 2 metres of the driveway measured from the back edge of the public road and for the full width of the driveway access, shall be hardsurfaced and thereafter shall be retained as such.

'In-curtilage' parking for 3 vehicles shall be provided as shown in docketed drawing no. 1159-02-RevD.

The gates to be installed at the new vehicular access hereby approved shall only open inwards into the application site.

Reason:

To ensure provision of a safe access and adequate parking and turning in the interests of road safety.

- 3 A schedule and samples of the materials to be used as external finishes of the house and integral garage hereby approved shall be submitted to and approved by the Planning Authority prior to their use in the development and thereafter the materials used shall accord with the samples so approved.

If the timber gates and gate posts to be installed at the new vehicular access hereby approved and the new 1.8 metres high timber fencing also hereby approved are to be painted or stained a colour or finished in a timber preservative, a sample(s) of that paint, stain or timber preservative shall be submitted to and approved in advance in writing by the Planning Authority, and the colour of the paint, stain or timber preservative applied to the gates, gate posts and fencing shall accord with the sample(s) so approved.

Samples of the materials to be used to surface the hardstanding areas to be used as footpaths, vehicular parking and turning areas and driveway shall be submitted to and approved by the Planning Authority prior to their use in the development and thereafter the materials used shall accord with the samples so approved.

Reason:

To ensure that the external finishes are appropriate in the interest of safeguarding the character and appearance of the area.

- 4 The group of trees on the east side of the application site shall be retained and shall not be damaged or uprooted, felled, lopped, or topped without the prior approval of the Planning Authority.

Reason:

To ensure the retention of and health of trees or shrubs on the application site which are important to the landscape character and amenity of the area.

- 5 No development shall take place on site until temporary protective fencing comprising standard scaffold poles as uprights driven into the ground avoiding tree roots, with 3 standard scaffold poles as horizontal rails (top, middle and bottom), all with weld mesh wired to uprights and rails. This temporary protective fencing should be 2.3 metres in height, erected prior to works commencing and kept in good condition throughout the works, all in accordance with Figure 2 of British Standard 5837: 2012 'Trees in Relation to Design, Demolition and Construction'.

This fencing shall be positioned to the west of the trees that are on the eastern side of the site in the position shown for it on docketed drawing no. 1159-02-Rev D.

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

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

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

Planning of site operations shall take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights in order that they can operate without coming into contact with any retained trees.

Any material whose accidental spillage would cause damage to a tree shall be stored and handled well away from the outer edge of its RPA.

Fires on sites should be avoided if possible. Where they are unavoidable, they should not be lit in a position where heat could affect foliage or branches. The potential size of a fire and the wind direction should be taken into account when determining its location, and it should be attended at all times until safe enough to leave.

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

Reason:

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

- 6 The house hereby approved shall not be occupied until the 1.8 metres high timber screen fencing to be erected on the north boundary, and part of the south boundary, as shown on docketed drawing no. 1159-02-Rev D, have been erected. Thereafter those boundary enclosures shall be retained in situ at those heights unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the occupiers of the neighbouring residential properties to the north and south.

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, or any subsequent Order amending, revoking or re-enacting that Order, no further windows or other glazed openings, including roof windows shall be formed at first floor level within the north and south elevations of the house hereby approved, other than those shown for those elevations on the docketed drawings.

Reason:

In the interests of safeguarding the privacy and amenity of the neighbouring residential properties to the north and south.

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, or any subsequent Order amending, revoking or re-enacting that Order, no windows or other glazed openings shall be formed at ground and first floor levels within the west elevation of the northern most of the two storey components of the house hereby approved.

Reason:

In the interests of safeguarding the privacy and amenity of the neighbouring residential properties to the west.

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





**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

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**3**

*Note - this application was called off the Scheme of Delegation List by Councillor Berry for the following reason: local consternation that industrial sites are being allocated in the countryside when ELC Planning has been derelict in its duty by allocating no provision for business/industry within N. Berwick.*

Application No. **13/00151/P**

Proposal Change of use of verge to form vehicular access, alterations to building, installation of CCTV cameras, erection of fencing and gates

Location **Halfland Barns  
North Berwick  
East Lothian  
EH39 5PW**

Applicant Mr Gerry Fitzelle

Per Iain Stewart Architect

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

The application site is part of the former Halfland Mushroom Farm, located in the countryside at Halfland Barns to the southeast of North Berwick.

On 9 November 2012 planning permission (12/00429/P) was granted through the Council's Scheme of Delegation List procedure for the change of use of the land of the former mushroom farm to business use (class 4). The grant of planning permission is subject to conditions controlling visibility splays of the existing access, working hours, noise emanating from the site and external storage.

Class 4 of the Use Classes Order defines business use:

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

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

The site is some 0.25 hectares of the 1.23 hectares area of the former mushroom farm. It is bounded to the north by hedge and tree planting with the C139 public road beyond, to the east and south by other land of the former mushroom farm with hedge and tree planting and the residence of Halfland House to the east, and agricultural land to the south. To the west it is bounded by a tree planted bund with agricultural land beyond.

On the site is an existing 284 square metre pitched roof building clad in composite panels. It was previously used for the operation of the mushroom farm.

To the northeast are houses of Smiddy Cottage, Smiddy Halfland Barns and Halfland Barns Schoolhouse and the business premises of Pitclay Gallery. Further east are the houses of Auldham Cottages. Otherwise the surrounding land is in agricultural use.

Planning permission is sought for alterations to the existing building, the change of use of part of the verge at the north of the site to form a vehicular access, the erection of fencing and gates and for the installation of CCTV cameras.

The applicant proposes to use the building for MOT testing and for vehicle repairs and maintenance.

The application is accompanied by a Design Statement. A method statement for the erection of fencing and gates has also been submitted.

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 area of land of the former mushroom farm to the south of this application site is the subject of a separate, unrelated planning application 13/00251/P for the erection of a workshop building for Class 4 business use. That application is also on this Scheme of Delegation List.

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 Policy ENV3 and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and the Undeveloped Coast), DP2 (Design), DP14 (Trees On or Adjacent to Development Sites), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

Twelve written objections have been received. Two of the objectors have submitted two letters each. The grounds of objection are:

- 1) no neighbours were notified of the application;
- 2) the proposal is contrary to Local Plan policies DC1, DP1 and DP2;
- 3) the effect on nearby residents of noise, vibration, smell, fumes, smoke, use of compressors and similar tools and oil contamination;

- 4) the monitoring and enforcement of such issues is notoriously difficult;
- 5) it would result in greater use of a narrow unclassified road which is not suitable for additional car and van journeys and heavy vehicles to serve an industrial site. The road has sharp bends and is used by cyclists and walkers;
- 6) the additional vehicular access is unnecessary;
- 7) fences, lights and CCTV cameras would detract from the countryside and area of natural beauty;
- 8) CCTV would affect the privacy of local residents
- 9) the proposed security measures are not necessary here, they are proposed due to break-ins at the applicant's existing site;
- 10) the applicant's existing site at Whitekirk is strewn with debris and vehicles;
- 11) the use of the whole site granted planning permission for Class 4 use could result in 8 businesses using the site, with further additional traffic;
- 12) the applicant's original preference for Class 5 industrial use should have sounded alarm bells;
- 13) there has been no further mention of Section 75 agreements;
- 14) it will devalue an objectors property;
- 15) it will increase risk of burglary of nearby houses due to the increased passing of workers and suppliers;
- 16) Scottish Power's supply lines are below the ground in front of an objectors house, will the supply to the site also be underground;
- 17) the proposal is for an existing new business and will not generate significant new employment;
- 18) there is no passing trade for this type of business;
- 19) it will disturb and drive away wildlife at nearby Roundhall; and
- 20) it will result in the loss of trees and of hedges which provide bee habitat.

The application was neighbour notified and advertised in accordance with statutory requirements.

The effect of proposals on the value of an objector's house is not a material planning consideration in the determination of this application, nor is a perceived risk of burglary due to workers and suppliers passing nearby houses. Access and provision of power supply is a private matter between the applicant and Scottish Power.

The site is not the subject of any landscape, natural heritage or protected species designation.

The Council's Biodiversity Officer confirms that he has no issues with the proposed development.

The residential property of Halfland House was previously tied to the business of Halfland Mushroom Farm by a Section 75 agreement. The Council agreed in 2011 to the discharge of that agreement through grant of discharge of planning obligation 11/00003/OBL, on the grounds that the mushroom farm business had been wound-up.

In the Design Statement submitted with the application it is stated that the working environment would not be noisy, with the majority of the work quiet, being diagnostic in nature through computers linked to car engine management systems and concentrated work involving dismantling and repair of small components.

It is further stated that the business does not carry out extensive bodywork repair, spray painting or panel beating but only minor works such as to an exhaust or cill.

The applicant states that he supplied a list of equipment used by the business to the Council's Environmental Protection team, with relevant noise data where available. It is indicated on the plans submitted that potentially noisier equipment such as a compressor would be housed in an acoustically damped enclosure if necessary.

The applicant refers to correspondence from Environmental Protection on noise in which it is stated that the applicant should be able to comply with their recommended noise limits.

The use of the proposed building for MOT testing, diagnostic work and repairs of the types stated are of a light industrial nature. They do not involve the use of heavy machinery. They would be contained within the proposed building.

On the basis of the above the proposals accord with the approved Class 4 use of the site. There are no permitted development rights to change the Class 4 use of the site to some other use. Any future proposal for a use other than a Class 4 use would require planning permission and so too would any proposal for the erection of a new building or the carrying out of any other form of development on the site. They would be subject to the planning control of the Council.

The Council's Environmental Protection Manager has no objection to the proposals. He raises no concerns in respect of the proposed operations as set out in the applicant's statement.

In respect of potential impacts from the use of the proposed building, he refers to the relevant conditions of planning permission 12/00429/P:

- Unless otherwise approved in writing by the Planning Authority, no working shall take place within the site outwith the hours of 0800 to 1800 Monday to Friday inclusive and 0800 to 1300 on Saturdays. There shall be no working whatsoever on Sundays.
- Noise emanating from the site shall not exceed Noise Rating Curve NR20 in any octave band frequency at any nearby residential property, assuming windows open at least 50mm for ventilation purposes.

The Environmental Protection Manager is satisfied that the proposed use of the building can be carried out in compliance with those conditions. He further recommends that there be a condition controlling any short burst duration noise, such that the Rating Level, LArTr, of noise emanating from the premises when measured 3.5m from the

façade of any neighbouring residential property be no more than 5dB (A) above the background noise level, LA90T.

Subject to these conditions the Environmental Protection Manager raises no concerns that the proposals would have any harmful impact on residential amenity.

The Council's Economic Development Manager has no objection to the proposals. She confirms that the applicant's company AA Engineering, requires to relocate from its existing site at Whitekirk due to the proposed hotel development there.

The proposed alterations to the building would be to form two windows on the north elevation, form a pedestrian doorway at the south end of the east elevation and change the position of the existing two roller shutter doors on the east elevation. The alterations proposed are minor in nature and would not affect the character and appearance of the building. Nor would they have any impact on the privacy of houses in the area.

The proposed palisade fence would be 2.4 metres in height and be painted a dark green colour.

The applicant advises that there would be a need for the parking of customer vehicles during their repair and maintenance at the premises; most of these vehicles will be in a drive-away state (though some will be in the process of repair) hence the need for a secure compound at the site.

The proposed fence would not be erected around the perimeter of the site at the roadside or to the west of the bund. Rather, it would be erected along the inner line of the existing tree and hedge belts to the north and east of the site and on the south side of the site. The north and west lengths of it would therefore be enclosed by that existing planting, other than at the proposed access, where a small part of it and the proposed gates would be visible from the public road. The south length and short east length of it would be screened from the road by the existing building.

The applicant has stated that he would be willing to carry out additional planting around the new access to screen and soften the appearance of the fence and gates. This can be required by a condition of the grant of planning permission. Subject to this the proposed fence and gates would not be a harmfully intrusive presence in this part of the East Lothian countryside.

In respect of the trees and hedges, the Council's Policy and Projects Manager advises of concerns at the impact of digging to erect the proposed fence within the existing line of trees and hedge around the site. In response to these concerns, the applicant has submitted a method statement. The Policy and Projects Manager accepts the findings of this method statement other than requiring that any digging be carried out by hand to protect tree and hedge roots. The applicant has confirmed his agreement to this, which can be made conditional on the grant of planning permission.

In the statement accompanying the application, it is proposed to have lighting above the new west elevation doors, by way of downward facing, top shrouded light fittings to minimise upward light leak. These would be halogen units switched from within the premises and not detector type lights which can trigger out of hours. It would be prudent of the Council to ensure that any lighting used in this countryside location be designed so as to avoid light spillage from the site and the design, placement, shielding and luminosity of it be subject to the prior approval of the Planning Authority. This can be made conditional on the grant of planning permission.

The proposed CCTV cameras are shown as mounted on the west (rear) elevation of the building and on a pole positioned in the southeast corner of the site. They would be oriented to record the compound within the site and the existing access road into the site. The proposed cameras so oriented would not be direct towards any residential property and would not harm the privacy of residents.

In the applicant's statement it is set out that they would be mounted to comply with the relevant provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. However, no details are given of the height of the proposed pole on which two cameras would be mounted. It would be prudent for the Council to require that the details of this be submitted for prior approval, which can be required by a condition on the grant of planning permission.

On the above considerations of visual and landscape impact, residential amenity and impact on trees, the proposed development is consistent as relevant with Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 and with Policy DP2, DP12 and Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service raises no objection to the proposals. They raise no concerns in respect of the impact on the local road network or in terms of parking provision. They are satisfied with the proposed access arrangements subject to the first 10 metres of the access road being hard formed and the proposed gates opening into the site and not outwards to the public road. These matters can be made conditional on the grant of planning permission.

On these Transportation considerations the proposals are consistent with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

Matters of drainage and pollution control, including oil pollution, are subject to regulation by the Scottish Environment Protection Agency. They are subject to legislation other than planning legislation.

#### CONDITIONS:

- 1 Development shall not begin until a scheme of landscaping of the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of all hedges, trees including large species trees and shrubs to be planted including sizes, species, habitat, siting, planting distances and a programme of planting. This shall include infill planting around the site access hereby approved;

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

#### Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development and to mitigate for the loss of trees at the access.

- 2 Prior to the commencement of development the trees adjacent to the site access and fence hereby approved that are to be retained shall be protected by fences of a type and in positions in accordance with BS5837:2005 and in accordance with details to be submitted to and approved in advance by the Planning Authority.

The construction of the proposed fence shall be carried out in accordance with the method statement docketed to this planning permission, other than that all digging within tree root protection areas shall be carried out by hand and not by auger as stated.

Reason:

To ensure the retention of trees important to the visual character and amenity of the area.

- 3 Prior to any use being made of the access hereby approved the access road shall be hard formed for at least 10 metres from its junction with the south side of the C139 road.

Otherwise the access, parking and turning arrangements shall be as detailed in drawing No: 173-PL-03 docketed to this planning permission and shall thereafter remain in such use unless otherwise approved by the Planning Authority.

Reason:

In the interests of road safety.

- 4 Gates shall be installed only so as to open inwards into the site and not outwards to the public road.

Reason:

In the interests of road safety.

- 5 Prior to the erection on site of any pole for the mounting of CCTV cameras, details of its positioning, height and materials shall be approved in writing by the Planning Authority and shall thereafter be erected in accordance with the details so approved.

Reason:

In the interests of the visual amenity of the area.

- 6 Unless otherwise approved in writing by the Planning Authority, no working shall take place within the site outwith the hours of 0800 to 1800 Monday to Friday inclusive and 0800 to 1300 on Saturdays. There shall be no working whatsoever on Sundays.

Reason:

In the interests of the amenity of nearby houses.

- 7 Noise emanating from the site shall not exceed Noise Rating Curve NR20 in any octave band frequency at any nearby residential property, assuming windows open at least 50mm for ventilation purposes.

Reason:

In the interests of the amenity of residents of nearby houses.

- 8 The Rating Level, LArTr, of noise emanating from the premises when measured 3.5m from the façade of any neighbouring residential property, shall be no more than 5dB (A) above the background noise level, LA90T. All measurements to be made in accordance with BS 4142: 1997 Method for rating industrial noise affecting mixed residential and industrial areas.

Reason:

In the interests of the amenity of residents of nearby properties.

- 9 No outside storage shall take place within the site without the prior written consent of the Planning Authority.

Reason:

In the interests of the visual amenity of the area.

- 10 Details of all external lighting, including any movement sensitive lighting, proposed to be used within the site shall be submitted to and approved in writing by the Planning Authority prior to its erection. The lighting shall be designed, positioned, oriented and shrouded to ensure that no light from within the site spills beyond the boundaries of the site area.

Reason:

In the interests the amenity of nearby properties and of this part of the East Lothian countryside.

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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

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*Note: this application was called off the Scheme of Delegation List by Councillor Berry for the following reason: Local consternation that industrial sites are being allocated in the countryside when ELC Planning has been derelict in its duty by allocating no provision for business/industry within N. Berwick.*

Application No. **13/00251/P**  
Proposal Erection of workshop building for Class 4 use  
Location **Land At Halfland Barns  
North Berwick  
East Lothian  
EH39 5PW**  
Applicant David Millar Contracts Ltd  
Per Planning and Building Design Ltd  
RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

The application site is part of the former Halfland Mushroom Farm, located in the countryside at Halfland Barns to the southeast of North Berwick.

On 9 November 2012 planning permission (12/00429/P) was granted through the Council's Scheme of Delegation List procedure for the change of use of the land of the former mushroom farm to business use (class 4). The grant of planning permission is subject to conditions controlling visibility splays of the existing access, working hours, noise emanating from the site and external storage.

Class 4 of the Use Classes Order defines business use:

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

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

The site is some 0.18 hectares of the 1.23 hectares area of the former mushroom farm. It is bounded to the north, east and south by other land of the former mushroom farm with hedge and tree planting and the C139 public road beyond to the north, hedge and tree planting and the residence of Halfland House to the east, and agricultural land to the south. To the west it is bounded by a tree planted bund with agricultural land beyond.

To the northeast are houses of Smiddy Cottage, Smiddy Halfland Barns and Halfland Barns Schoolhouse and the business premises of Pitclay Gallery. Further east are the houses of Auldham Cottages. Otherwise the surrounding land is in agricultural use.

Planning permission is sought for the erection of a workshop building for Class 4 business use. The building would be located centrally within the site on an east west axis. It would be some 39 metres long on that axis and some 17 metres wide. It would have a pitched roof with a ridge some 6.8 metres high. The walls of the building would be partly block-work but mostly formed of composite cladding. The pitched roof would also be formed of composite cladding. A roller shutter door and two access doors would be formed on the north elevation. Parking for the proposed building would be formed at the north of the building. The site would be accessed via the existing vehicular access to the site from the C139 public road to the north and the existing internal access road through the centre of the former mushroom farm.

The application is accompanied by a statement of the activities of Jerba Campervans Ltd, on whose behalf the application is made. A Tree Survey and Arboricultural Impact Assessment has also been submitted.

Existing polytunnels on the site, which were used for the mushroom farm, would be removed to facilitate the proposed development. The removal of them does not require planning permission and therefore does not form part of this application.

The area of land of the former mushroom farm to the north of this application site is the subject of a separate, unrelated planning application (13/00151/P) for the change of use of the grass verge of the C139 road to form vehicular access, alterations to the existing metal framed building on the site, the installation of CCTV cameras and the erection of fencing and gates. That application is also on this Scheme of Delegation List.

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 Policy ENV3 and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and the Undeveloped Coast), DP2 (Design), DP14 (Trees On or Adjacent to Development Sites), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

Eight written objections have been received. Two of the objectors have submitted two letters each. The grounds of objection are:

- 1) no neighbours were notified of the application;
- 2) the proposal is contrary to Local Plan policies DC1, DP1 and DP2;
- 3) the effect on nearby residents of noise, vibration, smell, fumes, smoke, use of compressors and similar tools and oil contamination, and noise data is incomplete;
- 4) it would result in greater use of a narrow unclassified road which is not suitable for additional car and van journeys and heavy vehicles to serve an industrial site. The road has sharp bends and is used by cyclists and walkers;
- 5) fences, lights and CCTV cameras would detract from the countryside and area of natural beauty;
- 6) the use of the whole site granted planning permission for Class 4 use could result in 8 businesses using the site, with further additional traffic;
- 7) the applicant's original preference for Class 5 industrial use should have sounded alarm bells;
- 8) there has been no further mention of Section 75 agreements;
- 9) the proposed building is twice the size of the existing building and 2 metres higher than it;
- 10) the proposal is for an existing new business and will not generate significant new employment; and
- 11) it will result in the loss of trees.

The application was neighbour notified and advertised in accordance with statutory requirements.

The site is not the subject of any landscape designation.

The Council's Biodiversity Officer advises that he sees no biodiversity issues arising from the proposals and has no objection.

The residential property of Halfland House was previously tied to the business of Halfland Mushroom Farm by a Section 75 agreement. The Council agreed in 2011 to the discharge of that agreement through grant of discharge of planning obligation 11/00003/OBL, on the grounds that the mushroom farm business had been wound-up.

In the statement accompanying the application it is explained that Jerba Campervans Ltd was established in 2006 in North Berwick. The company undertakes the full internal conversion of predominantly brand new Volkswagen Transporter T5 vans into complete campervans, one of only 3 such companies in the UK. It is further explained that the business is strong, with a 6 month order book, that over the past 18 months work has been done in conjunction with Scottish Enterprise to improve productivity and the business is now mainly limited by workshop space. The statement also explains the work activities of the company including; the use of plant, machinery and tools and emissions of noise, dust, smell; employment and vehicle movements, security, drainage, storage and lighting.

The use of the proposed building would be for the fitting out of existing vans (usually new ones) as camper vans. The proposed operations within the proposed building are of a light industrial nature. They do not involve the use of heavy machinery. They would be contained within the proposed building.

On the basis of the above the proposals accord with the approved Class 4 use of the site. There are no permitted development rights to change the Class 4 use of the site to some other use. Any future proposal for a use other than a Class 4 use would require planning permission and so too would any proposal for the erection of a new building or for the carrying out of any other form of development on the site. They would be subject to the planning control of the Council.

The Council's Environmental Protection Manager has no objection to the proposals. He raises no concerns in respect of the proposed operations and use of machinery and tools as set out in the applicant's statement.

In respect of potential noise impacts from the use of the proposed building, he refers to the relevant conditions of planning permission 12/00429/P:

- o Unless otherwise approved in writing by the Planning Authority, no working shall take place within the site outwith the hours of 0800 to 1800 Monday to Friday inclusive and 0800 to 1300 on Saturdays. There shall be no working whatsoever on Sundays.
- o Noise emanating from the site shall not exceed Noise Rating Curve NR20 in any octave band frequency at any nearby residential property, assuming windows open at least 50mm for ventilation purposes.

The Environmental Protection Manager is satisfied that the proposed use of the building can be carried out in compliance with those conditions. He recommends that they be attached to any grant of planning permission for this proposal, subject to which he raises no concerns that the proposals would have any harmful impact on residential amenity.

The Council's Economic Development Manager supports the proposals. She advises that they would allow the scalability and growth of a business which her service has been working with over a number of years. It is projected that the company will be accepted by Scottish Enterprise into their Account Management Portfolio (for the top 1% of high growth companies in Scotland) later this year if the relocation goes on schedule. She further advises that the company has shown good job creation over the years as well as a steadily growing turnover, with re-location to enable an increase turnover by a further £450k and expanding its existing product offering as well as diversifying into the conversion of horse boxes. She informs that a further 2 jobs are likely to be created following the move, resulting in a total of 10 full-time and 2 part-time jobs.

The proposed building would be no higher than the existing building to the north of the application site. It would benefit from screening provided by the existing tree and hedge planting to the north, east and west of the site. It would be contained within the site in the same way as the existing building to the north of it. So contained it would not be a prominent or harmfully intrusive presence in the landscape.

In respect of landscape considerations, the Council's Policy and Projects Manager advises that his only concern in respect of this application is the close proximity of the west foundations and elevation of the proposed building to the bund and trees at the west of the site. In response to this concern, the applicant has submitted a Tree Survey and Arboricultural Impact Assessment. The Policy and Projects Manager accepts the findings of the report in respect of the trees on the east of the bund. The trees are poplar

and willow. The survey finds that they are in poor condition and potentially of limited lifespan.

The Policy and Projects Manager advises that although not of value individually or in terms of species, the trees as a group are an important element of the visual containment of the site. They would be affected by the proximity of the west elevation of the building, which would reduce daylight to them and affect their future growth. However, he does acknowledge the poor quality and condition of the trees. In respect of this he advises that some new tree planting on the bund to improve the tree quality, help thicken it up and also mitigate any likely damage/future tree loss associated with the close proximity of the west elevation of the building would be acceptable mitigation of the likely impact of the proposals on the existing trees. The applicant has confirmed his agreement to this, which can be made conditional on the grant of planning permission.

The applicant does not propose to erect any fencing on the site. In the statement accompanying the application, it is proposed to have lighting at the entrance and roller shutter doors of the building and possibly some security lighting. It would be prudent of the Council to ensure that any lighting used in this countryside location be designed so as to avoid light spillage from the site and the design, placement, shielding and luminosity of it be subject to the prior approval of the Planning Authority. This can be made conditional on the grant of planning permission.

On the above considerations of visual and landscape impact, residential amenity and impact on trees, the proposed development is consistent as relevant with Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 and with Policies DP2, DP14 and Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service raises no objection to the proposals. They advise that the proposed workshop building would likely result in an increase in vehicle trips to and from the site, however, they raise no concerns in respect of the impact on the local road network. They are satisfied with the proposed access arrangements subject to the maintenance of the visibility splays required as a condition of planning permission 12/00429/P. They confirm that the proposed 6 car parking spaces proposed shall be sufficient to satisfy the standards as set out in the East Lothian Council Parking Standards.

On these Transportation considerations the proposals are consistent with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

Matters of drainage and pollution control, including oil pollution, are subject to regulation by the Scottish Environment Protection Agency. They are subject to legislation other than planning legislation.

#### CONDITIONS:

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

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

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

shall be shown on the drawing; and

c. the ridge height of the proposed building shown in relation to the finished ground and floor levels on the site.

Reason:

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

- 2 Development shall not begin until a scheme of landscaping of the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of all hedges, trees including large species trees and shrubs to be planted including sizes, species, habitat, siting, planting distances and a programme of planting. This shall include infill planting on the bund at the west of the site;

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

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development and to mitigate for the loss of trees at the east side of the bund.

- 3 Prior to the commencement of development the trees on the bund at the west of the site which are to be retained shall be protected by fences of a type and in positions in accordance with BS5837:2005 and in accordance with details to be submitted to and approved in advance by the Planning Authority.

Reason:

To ensure the retention of trees important to the visual character and amenity of the area.

- 4 Samples of the external finishing materials and colours to be used for the building hereby approved shall be provided for the prior inspection and approval of the Planning Authority and the finishing materials used shall accord with the samples so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interests of safeguarding the character and visual amenity of the area.

- 5 Prior to any use being made of the building hereby approved the junction of the access road to the site with the C139 road shall have been provided with minimum visibility splays of at least 2.5 metres by 160 metres to east and west of it. Thereafter those visibility splays shall be maintained such that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface.

Reason:

In the interests of road safety.

- 6 Prior to the use of the building hereby approved, the access, parking and turning arrangements as detailed in drawing No: 1390/01A docketed to this planning permission shall have been completed and brought into use and shall thereafter remain in such use unless otherwise approved by the Planning Authority.

Reason:

In the interests of road safety.

- 7 Unless otherwise approved in writing by the Planning Authority, no working shall take place within the site outwith the hours of 0800 to 1800 Monday to Friday inclusive and 0800 to 1300 on Saturdays. There shall be no working whatsoever on Sundays.

Reason:

In the interests of the amenity of nearby houses.

- 8 Noise emanating from the site shall not exceed Noise Rating Curve NR20 in any octave band frequency at any nearby residential property, assuming windows open at least 50mm for ventilation

purposes.

Reason:

In the interests of the amenity of nearby houses.

- 9 No outside storage shall take place within the site without the prior written consent of the Planning Authority.

Reason:

In the interests of the visual amenity of the area.

- 10 Details of all external lighting, including any movement sensitive lighting, proposed to be used within the site shall be submitted to and approved in writing by the Planning Authority prior to its erection. The lighting shall be designed, positioned, oriented and shrouded to ensure that no light from within the site spills beyond the boundaries of the site area.

Reason:

In the interests the amenity of nearby properties and of this part of the East Lothian countryside.

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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

**5**

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Application No. **13/00229/AMM**

Proposal Alterations and extensions of golf club house to form a 100 bed hotel and golf club house, erection of greenkeeper's shed and compound, club store/trolley store, alterations to golf course and associated works.

Location **Whitekirk Golf Club  
Whitekirk  
North Berwick  
East Lothian  
EH39 5PR**

Applicant Whitekirk Consortium Ltd

Per KBAD

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

Although this application is for the approval of matters specified in conditions of planning permission in principle 08/00078/OUT it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the gross floor space of the proposed hotel building would exceed 5,000 square metres. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

In June 1999 planning permission (Ref: 98/00748/FUL) was granted for an extension to the existing club house of Whitekirk Golf Club to contain function rooms and a 30 bedrooms hotel. The approved extension was to adjoin the northeast corner of the club house so as to be aligned at a right angle to the existing building, creating an L-shaped footprint. The approved extension was to be two storeys in height. Development of the extension did not commence and planning permission 98/00748/FUL lapsed in June 2004.

In June 2011 planning permission in principle (Ref: 08/00078/OUT) was granted for the development of a 100 bedroom hotel, a new club house, relocation of a greenkeeper's

compound, a new 18 hole golf course, 21 holiday lodges and 42 houses on some 138 hectares of land in the countryside to the north and east of Whitekirk. A docketed masterplan indicates how the different components of development could be laid out within the site.

The site the subject of planning permission in principle 08/00078/OUT is bisected into two parts by the A198 road, which runs north-eastwards from Whitekirk towards North Berwick. The majority of the land within the north-western part of the site is in golf and leisure use, under the operation of the Whitekirk Golf and Country Club. It includes an 18 hole golf course, golf driving range, practice area, maintenance compound, club house and leisure facility and associated car parking.

This further application seeks approval of matters specified in conditions of planning permission in principle 08/00078/OUT for the details of the siting, design and external appearance of the 100 bed hotel and golf club house, greenkeeper's shed and compound, club store/trolley store and alterations to the existing golf course, the means of access, the landscaping of the site and of other principles of development.

The application site has an area of some 66 hectares and forms part of the site the subject of planning permission in principle 08/00078/OUT. It does not include the land of the larger site that is approved in principle for 42 houses. Neither does it include the land of the larger site that is approved in principle for a new 18 hole golf course and the 21 holiday lodges.

The majority of the land within the application site consists of the operational land of Whitekirk Golf and Country Club. It also includes a length of the A198 road and an area of farmland that is immediately to the southeast of the A198 road. That land is lower lying than the part of the site that is to the northwest of the A198. The application site is mainly bounded by farmland. It is bounded partly to the southeast by the Peffer Burn. The land immediately to the east of the Peffer Burn forms part of the Tynninghame Designed Landscape. At its nearest point, the village of Whitekirk is located some 50 metres to the south of the application site.

The central southern part of the application site is within the Whitekirk Conservation Area. The remainder of the application site is within the North Berwick-Dunbar Coastline Area of Great Landscape Value.

There is a burial cairn located within the application site that is an ancient monument scheduled under the Ancient Monuments and Archaeological Areas Act 1979.

Amended plans have been submitted showing:

- (i) amended drainage proposals; and
- (ii) changes to the layout of the proposed kitchen and slight amendments to the greenkeepers shed and one of the cleaner's stores within the proposed hotel.

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 ENV1C (International and National Historic or Built Environment Designations), ENV1D (Regional and Local Natural and Built Environment Interests) and ENV1G (Design of New Development) of the approved Edinburgh and Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and Undeveloped Coast), NH4 (Areas of Great Landscape Value), ENV4 (Development within Conservation Areas), ENV7 (Scheduled Monuments and Archaeological Sites), DP1 (Landscape and Streetscape Character), DP2 (Design), DP6 (Extensions and Alterations to existing Buildings), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

Material to the determination of the application is Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Scottish Historic Environment Policy: July 2009 and Scottish Planning Policy: February 2010.

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

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.

One written objection to the application has been received. It is from The Architectural Heritage Society of Scotland. The Society objects to the banal design and regimented appearance of the new and extended hotel and golf club buildings.

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

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

By the grant of planning permission in principle 08/00078/OUT approval has been given for, amongst other things, the principle of a 100 bedroom hotel, relocation of a greenkeeper's compound and a new club house. There can therefore be no objection in principle to such use of the site.

In the masterplan docketed to planning permission in principle 08/00078/OUT, it was shown that the existing club house and leisure facility building could be retained and could provide the leisure and restaurant components of the new hotel. It was also indicatively shown on the submitted master plan that a replacement club house building could be located some 90 metres to the southwest of the existing club house and leisure facility building.

It is not now the intention of the applicant to build a replacement club house building. Rather it is now proposed that the existing club house and leisure facility building would be retained for use as a club house and leisure facility. The applicant has confirmed in writing that the leisure facilities and the restaurant of the club house would be used by hotel guests. There is nothing in the grant of planning permission 08/00078/OUT that requires the provision of a replacement club house and there would be no justifiable basis to refuse this further application on the basis that a separate replacement club house is not now proposed.

In the consideration of this application the requirement is to determine whether or not the proposed details of the hotel and leisure development of the site are consistent with the principles of development set for such development by planning permission in principle 08/00078/OUT and whether or not the development would be appropriate to its place.

The proposed hotel would have 100 guest bedrooms, a function room, a bar area, restaurant and new kitchen facilities. The 100 bedroom component of the proposed hotel would adjoin part of the north-western (rear) elevation of the existing club house and leisure facility building. It would have a broadly L- shaped footprint with the principal component of it running parallel to the existing club house and leisure facility building and would be three storeys in height, with the top floor being contained within the mansard roof of the extension. The function room and bar area of the proposed hotel would project out from the existing club house and leisure facility building in a southeast direction. This component would be broadly linear in form and would project out some 45 metres from the south-eastern elevation of the existing club house and leisure facility building. The walls of the proposed extensions would be finished in a white coloured render. The roofs of the extensions would be clad in natural slate.

It is proposed to erect a new greenkeeper's shed at the northern end of the application site in a position some 90 metres to the west of the proposed hotel. The greenkeeper's shed would have a rectangular footprint. Its walls would be finished in blockwork and profiled steel sheeting. Its roof would be pitched and gabled and clad in profiled steel sheeting. A compound would be formed immediately to the west of the proposed greenkeeper's shed.

It is intended that the majority of the 18 holes of the existing golf course would remain unaltered. However alterations to 6 of the holes are proposed. The proposed alterations include the formation of new greens, bunkers, tees and lengths of fairway.

What is proposed for the development of the application site would be a sympathetic expansion of the existing golf and leisure use of the Whitekirk Golf and Country Club with due regard to its existing layout and built form. The proposed layout is broadly consistent with the Masterplan docketed to planning permission in principle 08/00078/OUT.

The proposed hotel would essentially consist of 3 components, the central one of which is the existing club house and leisure facilities building of Whitekirk Golf and Country Club. The largest component of the proposed hotel building, which would contain the 100 guest bedrooms, would adjoin part of the north-western (rear) elevation of the existing club house and leisure facilities building. In that position, it would be within the gully that currently contains a part of the 18th hole of the existing golf course. Consistent with planning permission in principle 08/00078/OUT, that component would be linear in form and would not be significantly higher than the roof of the existing club house and leisure facilities building. It would be built in to the sloping ground, which falls away to the club house with an element of step down. By virtue of its size the guest bedrooms component of the proposed hotel would be visible within its landscape setting. However the local landform would give some degree of visual containment to it. In its position, and by virtue

of its architectural form, height and layout, the guest bedrooms component of the proposed hotel would not have an unacceptable visual impact on the surrounding area. The other component of the proposed hotel, which would contain the function room and bar area, would project out from the existing club house and leisure facilities building in a southeast direction. It would be sited essentially in the same general position as the hotel that was approved by the grant of planning permission 98/00748/FUL, although it would not project out as far as the previously approved hotel building. Whilst this component would undoubtedly be visible in views from public places, it would nevertheless be less prominent than the hotel building the subject of planning permission 98/00748/FUL. The architectural style of the function room component of the proposed hotel would be in keeping with that of the existing club house and externally finished in materials to match it.

The proposed guest bedroom and function room components of the hotel and the other works associated with the proposed hotel, including the proposed club store/trolley store, would not by their presence appear so intrusive, incongruous or exposed as to be unacceptably harmful to the landscape character and visual amenity of the Area of Great Landscape Value of which the application site is a part. Due to their distance away from and the nature of the intervening landform they would not have a harmful impact on the setting of Whitekirk Conservation Area or of Tynninghame Designed Landscape.

The proposed greenkeeper's shed and compound are designed for the functionality of their intended use. Nevertheless the proposed shed would have a similar form and appearance to many agricultural buildings that are located within the East Lothian countryside. Moreover, when seen in public views from the north and north east of the application site the proposed greenkeeper's shed and compound would be viewed against the backdrop of rising ground and would not appear visually prominent or intrusive in its landscape setting. Within this landscape setting, it would not be harmful to the landscape character and visual amenity of the Area of Great Landscape Value of which the application site is a part. The proposed greenkeeper's shed and compound would not have a harmful impact on the setting of Whitekirk Conservation Area or of Tynninghame Designed Landscape.

The proposed alterations to the existing golf course would require the carrying out of limited land engineering works. In the simple design of the altered golf course the purpose is to make full use of the existing landform of the site with the minimum of physical change. The new greens, bunkers, tees and lengths of fairway would be seen in relation to the existing golf course and would not have a harmful impact on the landscape character and visual amenity of the Area of Great Landscape Value of which the application site is a part. The proposed alterations to the existing golf course would not have a harmful impact on the setting of Whitekirk Conservation Area or of Tynninghame Designed Landscape.

The Council's Policy and Projects Manager raises no objection to the details of the proposed development, being satisfied with the proposed scheme of landscaping.

The burial cairn on Whitekirk Hill, which is a scheduled ancient monument would not be directly impacted on by the proposed development and would not have its setting adversely affected.

In their consultation response, Historic Scotland do not object to the proposed development on the basis that it would harm the setting of the Whitekirk Hill Cairn scheduled monument or the conservation objectives of the Tynninghame Designed Landscape.

The Scottish Environment Protection Agency (SEPA) initially objected to the proposed development, raising concern about the technical viability of a private treatment system at this location, and also over the principle of achieving a sustainable foul drainage system. In response, the applicant has augmented the level of treatment to take account of the strict discharge standards that will be required to be met in order to obtain a license from SEPA under the statutory provisions of the Water Environment (Controlled Activities) (Scotland) Regulations 2011. In light of this, SEPA have withdrawn their previous objection to the proposed development. They do however recommend that the discharge of surface water to the water environment should be in accordance with the principles of the SUDS (Sustainable Drainage Systems) Manual C697 published by CIRIA. This planning control can be secured by a condition imposed on the approval of matters specified in conditions for the proposed leisure and tourism development.

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

The different components of the proposed scheme of development would be erected at some distance from residential properties in the area, the majority of which are located within the village of Whitekirk.

Conditions 8 and 9 of planning permission in principle 08/00078/OUT require that the leisure and tourism development should be constructed in accordance with a construction method statement and a method statement for the routing and management of construction traffic, both of which should be submitted to and approved in advance by the Planning Authority.

The Council's Environmental Protection Manager has considered this application in respect of the environmental impacts that might arise from the proposed development. He is satisfied that those conditions are sufficient to ensure that the construction activities would not have a significantly harmful impact on the environment or on the privacy and amenity of neighbouring properties. The Environmental Protection Manager raises no concerns in respect of the future operation of the proposed leisure and tourism development.

In view of this advice it can be concluded that the proposed development would not harm the privacy or amenity of neighbouring properties.

The Council's Food Safety Officer raises no objection to the details of the proposed leisure and tourism development.

The existing club house and leisure facility is served by an existing private road that provides access from the A198. The existing private road would be retained to provide access to both the hotel and the existing club house, although its junction with the A198 road would be altered. A new length of road would be formed to the south of the realigned junction to provide access from the A198 road to the site approved in principle for the 21 holiday lodges by planning permission in principle 08/00078/OUT. A car park with 187 spaces would be formed in a position immediately to the south of the proposed hotel and golf clubhouse building.

The detailed access arrangements are in accordance with the principles of the means of accessing the leisure and tourism development established by the grant of planning permission in principle 08/00078/OUT.

The Council's Transportation service raise no objection to the detailing of the access arrangements. They do however make the following recommendations:

- (i) a Travel Plan Coordinator should be appointed to implement, promote and deliver the range of measures contained in the Travel Plan that was submitted with this application;
- (ii) an independent road safety audit of the proposed new junction with the A198 road should be completed with any findings included within the final design of the junction;
- (iii) no rooms in the proposed hotel should be occupied until the proposed new junction with the A198 road has been completed; and
- (iv) wheel washing facilities are provided during the construction phase of the leisure and tourism development.

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

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

Based on the planning assessment given above the proposed leisure and tourism development is consistent with Policies ENV1C, ENV1D and ENV1G of the approved Edinburgh and Lothians Structure Plan 2015 and Policies DC1, NH4, ENV4, ENV7, DP1, DP2, DP6, DP22 and T2 of the adopted East Lothian Local Plan 2008 and with the Scottish Historic Environment Policy: July 2009 and Scottish Planning Policy: February 2010.

## RECOMMENDATION

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

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

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

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

Reason:

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

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

Reason:

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

- 3 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of : the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

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

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 4 The discharge of surface water to the water environment shall be in accordance with the principles of the SUDS (Sustainable Drainage Systems) Manual (C697) published by CIRIA.

Reason:

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

- 5 Prior to the commencement of development, the applicant shall appoint a Travel Plan Co-ordinator in consultation with the Planning Authority. The Travel Plan Co-ordinator shall be in post at least prior to any use being made of the hotel hereby approved. The Travel Plan Co-ordinator shall implement, promote and deliver the range of measures contained in the Travel Plan that is docketed to this approval of matters specified in conditions.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the leisure and tourism development hereby approved.

- 6 Prior to the commencement of development, an independent road safety audit of the design of the proposed new junction with the A198 road shall be completed and any findings included within the final design of the new junction.

The new junction shall thereafter be completed in accordance with the findings of the independent road safety audit and prior to any use being made of the hotel hereby approved.

Reason:

In the interests of road safety.

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

Reason

In the interests of road safety.



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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

**6(i)**

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*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. **13/00002/P**  
Proposal Erection of 4 houses, garages and associated works  
Location **Kings Cairn (Site 9)  
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 the northeast end of the access road that runs through the Archerfield Estate and some 530 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 130 metres to the north of the site. The Firth of Forth Special Protection Area is located some 150 metres to the north of the site.

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

The four proposed house plots would be positioned to the south of the northeast end of the access road that runs through the Archerfield Estate. Two of the houses would be accessed directly off that road and the other two houses would be accessed from it via a roundel that would be formed at the end of the existing road. Each house would have private side and rear gardens.

The houses would be two storeys in height. Three different house types are proposed. All of the 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 astragalled windows and timber doors. The roofs of the houses would be clad in slate. Two of the properties would have a double garage. The other two properties would each have two double garages. 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 part of the existing belt of trees along the eastern and western edges of the site and a belt of trees centrally located within 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), 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.

Three written representations have been received from the public in respect of this planning application. Two of these, one of 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 objection raises concern over i) traffic congestion and road safety; ii) detrimental impact on the listed buildings with the increased activity and traffic on the Estate; and iii) Archerfield will lose its exclusivity and will just become a housing estate and not somewhere special.

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 four 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 four 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 of the woodland that would adjoin the respective housing plots to garden ground. 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 as to 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 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. Also, 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, 13/00003/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. 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, raise no objection to the proposed houses.

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 walker 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 two proposed access junctions with 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 four 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, 13/00003/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 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 remains 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.

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





**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

**6(ii)**

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*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. **13/00003/P**  
Proposal Erection of 2 houses, garages and associated works  
Location **Kings Cairn (Site 10)  
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 290 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 230 metres to the north of the site. The Firth of Forth Special Protection Area is located some 250 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 west of the application site.

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

The two proposed house plots would be positioned to the south of part of the access road that runs through the Archerfield Estate. The two houses would be accessed directly off that road. Each house would have private side and rear gardens.

The houses would be two storeys in height. Two different house types are proposed. Both of the 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 astragalled windows and timber doors. The roofs of the houses would be clad in slate. One of the properties would have a double garage. The other property would have two

double garages. 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 part of the existing belt of trees along the eastern 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 bedrooomed 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 two 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 two 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 appropriate 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 adjoin 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 without the need for planning permission. 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, 13/00004/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. 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 care village development is 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 walker 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 their 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 their original consultation response, they 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. They 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 they are 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. They recommend 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 two proposed access junctions with 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 2 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, 13/00004/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 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.

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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

**6(iii)**

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*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 astragalled 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.

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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

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**6(iv)**

*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. **13/00005/P**  
Proposal Erection of 5 houses, garages and associated works  
Location **Kings Cairn (Site 12)  
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 is 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 80 metres to the east 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 320 metres to the north of the site. The Firth of Forth Special Protection Area is located some 340 metres to the north of the 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 astragalled windows and timber doors. The roofs of the houses would be clad in slate. Three of the properties would have two double garages. The other two properties 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 and southern 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), 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.

Three written representations have been received from the public in respect of this planning application. Two of these, one of 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 bedrooomed 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 objection raises concern over i) traffic congestion and road safety; ii) detrimental impact on the listed buildings with the increased activity and traffic on the Estate; and iii) Archerfield will lose its exclusivity and will just become a housing estate and not somewhere special.

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 appropriate 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 adjoin 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 without the need for planning permission. 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, 13/00004/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.

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 walker 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 their 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 their original consultation response, they 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. They 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 they are 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 Yellowcraig Beach. They recommend 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 5 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, 13/00004/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.



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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

**6(v)**

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*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. **13/00006/P**  
Proposal Erection of 1 house and associated works  
Location **Kings Cairn (Site 13)  
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 bed roomed 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 bed roomed 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 the land close to Marine Villa. Whilst the land is within the Archerfield Estate, it is nevertheless outwith the site the subject of planning permission 01/00504/FUL.

The application site is located to the southwest of the houses of Marine Villa, Marine Villa Cottage and the Boathouse. The house of Marine Villa is listed as being of special architectural or historic interest, Category B and the house of Marine Villa Cottage is listed as being of special architectural or historic interest, Category C(S). The application site is on the northern part of the Archerfield Estate, and is located within the Archerfield Designed Landscape and within the Longniddry – North Berwick coastline Area of Great Landscape Value. It is also within the Archerfield Estate Listed Wildlife Site. A public right of way passes some 100 metres to the north of the site. The Firth of Forth Special Protection Area is located some 130 metres to the northwest of the site.

A single storey building is located within the site. It has a broadly rectangular form and a pitched roof and features a large opening at its northern end. The building was used as a look out post during the Second World War. The building is on elevated ground that is at a considerably higher level than the land to the north of it. The land immediately to the north of the building falls steeply downwards. To the north, east and south of the single storey building is land that is used as garden ground for the houses of Marine Villa and Marine Villa Cottage. To the west of it is land that is within the ownership of the Renaissance Golf Club. There are a number of trees on the land to the north and south of the building. The application site is accessed from the public road by the private road network through the Archerfield Estate and then from the driveway leading to the houses of Marine Villa and Marine Villa Cottage and then by a narrow track.

Planning permission is sought for the erection of one house on the application site. To facilitate the proposed development the existing building would be demolished.

The proposed house would have a broadly rectangular footprint and would be aligned on a north to south axis. It would be built over both the elevated land on part of which the existing building is positioned on and over the steeply sloping land that is to the north of it. The section of the proposed house on the elevated land would be single storey in height whilst the section of the proposed house on the steeply sloping land would be two storeys in height. The walls of the proposed house would be finished in stone and would feature timber cladding. The roof would be pitched and clad with cedar shingles.

It is proposed to have garden ground on the east and south sides of the building to serve the proposed house. Three car parking spaces would be formed immediately to the south east of the proposed house. Access to the proposed house would be taken from the driveway leading to the houses of Marine Villa and Marine Villa Cottage, by way of a new length of driveway.

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), ENV3 (Listed Buildings), ENV8 (Gardens and Designed Landscapes), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing), 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 Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building or its setting given in Scottish Planning Policy: February 2010.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or

its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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 bedrooomed 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.

In their consultation response, Scottish Natural Heritage suggest that a landscape and visual impact assessment may be helpful in determining this application. However such an assessment was not requested from the applicant, as it is considered that sufficient information was submitted with the application to enable an informed assessment of the landscape and visual assessment of the proposed house to be undertaken.

The proposed house would be significantly larger than the existing building it would replace. Nevertheless, when seen in relation to Marine Villa and Marine Villa Cottage and when viewed against the backdrop of the surrounding trees, the proposed house would not appear harmfully prominent or intrusive. The proposed house, by virtue of its size, positioning, design and finishing materials, would not be harmful to the landscape character and appearance of the Area of Great Landscape Value.

The proposal would not be an over development of the site. The land around the building allocated for car parking and garden ground is large enough for such purposes.

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

recommends that the proposed development should be carried out in strict accordance with its findings.

The proposed house would be positioned within the site such that it would not have an unacceptable impact on the privacy or amenity of the residential properties of Marine Villa, Marine Villa Cottage and the Boathouse. The future occupants of the proposed house 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 house would not harm the conservation objectives of the Archerfield Designed Landscape. On this consideration the proposed house is 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, raise no objection to the proposed house.

In its position, the proposed house would not be harmful to the setting of the listed buildings of Marine Villa or Marine Villa Cottage. On this consideration the proposed house is consistent with Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015, Policy ENV3 of the adopted East Lothian Local Plan 2008 and the Scottish Historic Environment Policy: July 2009 in respect of the affect of it on the setting of Marine Villa and Marine Villa Cottage.

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

Scottish Natural Heritage raise no objection to the proposed house on ecological grounds, being satisfied that it would not have an adverse effect on the conservation interests of the Special Protection Area. On this consideration the proposed house is 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 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 Mngement 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 proposed house would be accessed from the public road from the existing access junction of the private road network that serves the Archerfield Estate and then from that private road network via the driveway to the house of Marine Villa. These accesses and roads would be retained and would remain unaltered. A new hard surfaced driveway between the driveway of Marine Villa and the application site would be formed. The Council's Transportation service is satisfied that the proposed house could be safely accessed and that sufficient off street car parking could be provided. They are also



satisfied that the proposed house would not result in the local road network being put under excessive pressure.

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

Scottish Water raise no objection to the proposed 1 house.

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, 13/00004/P, 13/00005/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 house 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 this planning application (Ref: 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 to 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 house the subject of this application, the subject of planning applications 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 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.

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

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

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**6(vi)**

*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. **13/00007/P**  
Proposal Erection of 4 houses, garages and associated works  
Location **Kings Cairn (Site 3)**  
**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 is 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 north of part of the access road that runs through the Archerfield Estate and immediately 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 immediately to the west of the Archerfield Designed Landscape. A public right of way passes some 160 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.

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

Two of the proposed house plots would be positioned immediately to the north of the access road that runs through the Archerfield Estate whilst the other two would occupy backland locations some 45 metres to the north of the access road and would access from it by way of a new length of single track access road. Each house would have private side and rear gardens.

The houses would be two storeys in height. Three different house types are proposed. All of the 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 astragalled windows and timber doors. The roofs of the houses would be clad in slate. It is proposed that 3 of the 4 properties would each have a double garage. The other property would have a triple 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 much of the existing belt of trees along the northern and the southern 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), ENV8 (Gardens and Designed Landscapes), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing), 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 Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building or its setting given in Scottish Planning Policy: February 2010.

One written representation has been received in respect of this planning application. It is from the Dirleton Village Association and they make objection to the proposed development.

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.

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 four 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 four 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.

They 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 they would be appropriate 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 buildings 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 adjoin 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 mean, for example, that planning permission would be required if they wished to erect a fence within the wooded area. Such requirements could be imposed by way of a conditional grant of planning permission for the proposed flats.

The proposed flats 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 12/01000/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. The future occupants of the proposed flats 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 flats would not harm the conservation objectives of the Archerfield Designed Landscape. On this consideration the proposed flats 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, raise no objection to the proposed flats.

The proposed flats would not harm the Archerfield Estate Listed Wildlife Site. On this consideration the proposed flats 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 walker 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 flats on ecological grounds. On this consideration the proposed house is 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 their 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 their original consultation response, they 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. They 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 they are 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 Yellowcraig Beach. They

recommend 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 proposed flats would be accessed directly from the access road that runs through the Archerfield Estate. The Council's Transportation service is satisfied that the proposed flats 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 two proposed access junctions with the access road that runs through the Archerfield Estate. The Transportation service is also satisfied that the proposed flats would not result in the local road network being put under excessive pressure.

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

Scottish Water raise no objection to the proposed 4 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, 13/00004/P, 13/00005/P, 13/00006/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 house 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.

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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration **6(vii)**

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*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. **13/00008/P**  
Proposal Erection of 4 houses, garages and associated works  
Location **Kings Cairn (Site 4)  
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 southwest of part of the access road that runs through the Archerfield Estate and 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 immediately to the west of the Archerfield Designed Landscape. There is a public right of way to the north of the site. The Firth of Forth Special Protection Area is located to the north of the site.

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

Two of the proposed house plots would be positioned beside the access road that runs through the Archerfield Estate, with the other two positioned just to the northwest of them and served by a short spur off the access road. Each house would have private side and rear gardens.

The houses would be two storeys in height. Four different house types are proposed. The house types would contain between 4 and 7 bedrooms. The houses would each be of a traditional design and would be externally finished in render with timber framed and astragalled windows and timber doors. The roofs of the houses would be clad in slate. It is proposed that three of the four properties would each have a double garage. The other property would have a triple 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 part of the existing belt of trees along the northern and the southwest 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), 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.

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 four 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 four 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. Also, 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, 13/00004/P, 13/00005/P, 13/00006/P, 13/00007/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, raise no objection to the proposed houses.

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 Yellowcraigs 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 four proposed access junctions with 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 4 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, 13/00004/P, 13/00005/P, 13/00006/P, 13/00007/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, the subject of planning applications 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 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.



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



**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 18 June 2013

**BY:** Executive Director of Environment  
(Planning & Building Standards)

**SUBJECT:** Application for Planning Permission for Consideration

**6(viii)**

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*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. **13/00009/P**

Proposal Erection of 4 houses, garages and associated works

Location **Kings Cairn (Site 5)  
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 is 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 north of part of the access road that runs through the Archerfield Estate and some 300 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 immediately to the north of the site. The Firth of Forth Special Protection Area is located some 25 metres to the north of the site.

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

The four proposed house plots would be positioned in a row beside the access road that runs through the Archerfield Estate. Each house would have private side and rear gardens.

The houses would be two storeys in height. Three different house types are proposed. The largest of the three house types would contain 7 bedrooms. The other two house types would each contain 5 bedrooms. The houses would each be of a traditional design and would be externally finished in render with timber framed and astragalged windows and timber doors. The roofs of the houses would be clad in slate. It is proposed that 2 of the 4 properties would each have a double garage. The other 2 properties would each have a triple 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 part of the existing belt of trees along the eastern edge of the site and a belt of trees centrally located within 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), 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.

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 four 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 four 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 appropriate 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 adjoin 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 without the need for planning permission. 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, 13/00004/P, 13/00005/P, 13/00006/P, 13/00007/P, 13/00008/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, raise no objection to the proposed houses.

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 Yellowcraigs beach to the east of the site. To prevent increased numbers of walker 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 their 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 their original consultation response, they 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. They 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 they are 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. They

recommend 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 four proposed access junctions with 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 4 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, 13/00004/P, 13/00005/P, 13/00006/P, 13/00007/P, 13/00008/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.

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





**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

**6(ix)**

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*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. **13/00010/P**  
Proposal Erection of 3 houses, garages and associated works  
Location **Kings Cairn (Site 6)**  
**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 north of part of the access road that runs through the Archerfield Estate and some 400 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 immediately to the north of the site. The Firth of Forth Special Protection Area is located some 30 metres to the north of the site.

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

The three proposed house plots would be positioned in a row beside the access road that runs through the Archerfield Estate. Each house would have private side and rear gardens.

The houses would be two storeys in height. Three different house types are proposed. Two of the three house types would contain 7 bedrooms. The other house type would contain 5 bedrooms. The houses would each be of a traditional design and would be externally finished in render with timber framed and astragalled windows and timber doors. The roofs of the houses would be clad in slate. The three properties would each have a triple 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 part of the existing belt of trees along the western edge of the site and a belt of trees centrally located within 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), 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.

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 three 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 three 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, 13/00004/P, 13/00005/P, 13/00006/P, 13/00007/P, 13/00008/P, 13/00009/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, raise no objection to the proposed houses.

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 three proposed access junctions with 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 three 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, 13/00004/P, 13/00005/P, 13/00006/P, 13/00007/P, 13/00008/P, 13/00009/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 to 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.

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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

**6(x)**

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*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. **13/00011/P**  
Proposal Erection of 4 houses, garages and associated works  
Location **Kings Cairn (Site 7)  
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 is 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 north of part of the access road that runs through the Archerfield Estate and some 580 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 immediately to the north of the site. The Firth of Forth Special Protection Area is located some 30 metres to the north of the site.

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

The four proposed house plots would be positioned in a row beside the access road that runs through the Archerfield Estate. Each house would have private side and rear gardens.

The houses would be two storeys in height. Four different house types are proposed. The largest house types would contain 6 bedrooms. The other house type would each contain 5 bedrooms. The houses would each be of a traditional design and would be externally finished in render with timber framed and astragalged windows and timber doors. The roofs of the houses would be clad in slate. Two of the properties would each have a triple garage and one of the properties would have a double garage. The other property would have two double garages. 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 part of the existing belt of trees along the western edge of the site and two belts of trees centrally located within 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), 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.

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 bedrooomed 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 four 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 four 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 appropriate 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 adjoin 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 without the need for planning permission. 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, 13/00004/P, 13/00005/P, 13/00006/P, 13/00007/P, 13/00008/P, 13/00009/P, 13/00010/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, raise no objection to the proposed houses.

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 walker 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 their 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 their original consultation response, they 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. They 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 they are 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. They

recommend 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 four proposed access junctions with 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 4 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, 13/00004/P, 13/00005/P, 13/00006/P, 13/00007/P, 13/00008/P, 13/00009/P, 13/00010/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.

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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

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**6(xi)**

*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.      **13/00012/P**

Proposal              Erection of 4 houses, garages and associated works

Location              **Kings Cairn (Site 8)**  
**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 east of the northeast end of the access road that runs through the Archerfield Estate and some 750 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 immediately to the north of the site. The Firth of Forth Special Protection Area is located some 30 metres to the north of the site.

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

The four proposed house plots would be positioned to the east of the northeast end of the access road that runs through the Archerfield Estate and would be accessed from it via a roundel that would be formed at the end of the existing road. Each house would have private side and rear gardens.

The houses would be two storeys in height. Four different house types are proposed. All of the 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 astragalled windows and timber doors. The roofs of the houses would be clad in slate. One of the properties would have a triple garage and one of the properties would have a double garage. The other two properties would each have two double garages. 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 part of the existing belt of trees along the southern edge of the site and a belt of trees centrally located within 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), 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.

Three written representations have been received from the public in respect of this planning application. Two of these, one of 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 bedrooomed 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 objection raises concern over i) traffic congestion and road safety; ii) detrimental impact on the listed buildings with the increased activity and traffic on the Estate; and iii) Archerfield will lose its exclusivity and will just become a housing estate and not somewhere special.

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 four 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 four 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, 13/00004/P, 13/00005/P, 13/00006/P, 13/00007/P, 13/00008/P, 13/00009/P, 13/00010/P and 13/00011/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, raise no objection to the proposed houses.

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. He 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 four proposed access junctions with 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 4 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, 13/00004/P, 13/00005/P, 13/00006/P, 13/00007/P, 13/00008/P, 13/00009/P, 13/00010/P and 13/00011/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 to 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.



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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 18 June 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

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7

Application No. **12/00922/PM**

Proposal Formation of onshore electrical transmission infrastructure between Thorntonloch and Crystal Rig II, comprising 12.3km of buried cable and new substation at Crystal Rig II

Location **Land Between Thorntonloch And Crystal Rig Wind Farm  
Dunbar  
East Lothian**

Applicant Neart Na Gaoithe Offshore Wind Limited

Per Shepherd and Wedderburn

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

As the area of the application site is greater than 2 hectares, the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation. The application is therefore brought before the Planning Committee for a decision.

As a statutory requirement of major development type proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 11/00008/PAN) and thus of community consultation prior to this application for planning permission being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that a total of 146 people attended the three pre-application public exhibitions held in East Lothian, one held at Innerwick village hall, one held at the Healthy Living Centre in Dunbar, and one held at Spott village hall, and that those attendees made a number of comments regarding the proposals. The development for which planning permission is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

The site that is the subject of this planning application has an area of some 62.4 hectares and is located to the south and southeast of Dunbar. It has a generally linear shape and extends from Thorntonloch beach to the existing electrical sub-station located within the Crystal Rig II wind farm, a distance of some 12.3km.

The part of the site at Thorntonloch beach is within the Thorntonloch Coastline Area of Great Landscape Value. The southwest part of the site, adjacent to the existing electrical sub-station of the Crystal Rig II wind farm, is within the Lammermuir Hills Area of Great Landscape Value.

Mainstream Renewable Power Limited has submitted an application under Section 36 of the Electricity Act 1989 to the Scottish Ministers for the erection of an off-shore wind farm, to be known as the Neart Na Goithe wind farm. It would be located some 28km northeast of Dunbar and some 32km northeast of North Berwick. The application for the proposed Neart Na Goithe wind farm is currently pending consideration.

Planning permission is sought through this application for the formation of onshore electrical transmission infrastructure between Thorntonloch beach and the existing electrical sub-station located within the Crystal Rig II wind farm, over a distance of some 12.3km.

In a planning statement submitted with the planning application, the applicant advises that the onshore electrical transmission infrastructure are a critical component to enable the proposed Neart Na Goithe wind farm to connect into the national electricity grid. It will facilitate the distribution of up to 450 MW of electricity, enough power to meet the needs of up to 335, 489 households.

The export cables from the off-shore wind farm would be brought ashore at Thorntonloch beach to either one of two underground structures, known as transition pits. These pits, which would house the joints between the off-shore and on-shore cables, would be a minimum of 10 metres long, 4 metres wide and 3 metres deep. A concrete cover would be placed over the top of the pits for protection and landscaping would be undertaken to reinstate the ground to its previous condition.

The on-shore cables would run underground from the proposed transition pits at Thorntonloch beach to a proposed electrical sub-station that would be positioned adjacent to the existing substation located within the Crystal Rig II wind farm.

From Thorntonloch beach, the cables would pass under and then alongside the A1 trunk road, before breaking off to the southwest through open fields and passing to the west of the village of Innerwick. It would then cut across country to the west before turning south to follow a minor road until the junction with the Crystal Rig wind farm access track, which it would then follow to the site of the proposed electrical sub-station.

The applicants have detailed a 30 metres wide corridor within which the on-shore cables would be installed. In some locations this has been widened to allow for vehicle turning or where extra space may be required. However it is anticipated by the applicant that the actual construction working corridor would not require this entire width, with only 20 metres required for the majority of the route. This would be wide enough to accommodate a 2 metres wide trench for the cables, a 2 metres wide contingency zone adjacent to the trench, a 5 metres wide access for heavy vehicles, a 5 metres wide zone for the laying down of equipment and spoil, a 3 metres wide vehicular/ pedestrian track and a further 3 metres to establish temporary fencing and to allow space for vehicle turning and parking.

Following the installation of the cables and the backfilling of the trench, the 20 metres wide working corridor would be backfilled and reinstated to allow a return to its former uses.

The route of the proposed cabling would pass under parts of the A1 trunk road, the main east coast rail line, the John Muir Way and a number of local roads.

The proposed sub-station would be erected immediately to the north of the existing electrical sub-station located within the Crystal Rig II wind farm. The proposed sub-station would have an irregular footprint, measuring some 260 metres at its longest point by 170 metres at its widest point. It would be enclosed by a 3.0 metres high palisade fence and would contain an access road, electricity transformation equipment and a control building. The proposed electricity transformation equipment would have a maximum height of 15 metres. The proposed control building would have a rectangular footprint and would be positioned on the northern part of the proposed sub-station. The walls and roof of the proposed control building would be clad with steel panels finished with plastisol.

The proposed sub-station would be accessed directly from the access road that serves the existing electrical sub-station.

Substantial cut and fill works would be required to achieve the finished ground level for the proposed sub-station. Some of the excavated material would be used to create a screening berm along the northern and western sides of the proposed substation.

An Environmental Impact Assessment was carried out for both the off-shore and on-shore components of the wind energy development being proposed by Mainstream Renewable Power Limited. It was structured such that part of the Environmental Statement relating to the on-shore component could be assessed separately with the planning application under the Town and Country Planning (Scotland) Act 1997. The Environmental Statement relating to the on-shore component has been submitted with the planning application. It contains chapters on terrestrial and inter-tidal ecology and ornithology, cultural heritage, landscape and visual amenity, geology, ground conditions, groundwater and coastal processes, hydrology, flood risk, water resources and surface water quality, soils, agriculture and land use, access, traffic and transport, air quality, noise and vibration, and socio-economic effects.

A Design and Access Statement has been submitted with the planning application. The Statement provides information on the principles and approach that have guided the design process and responds to the requirement to demonstrate observance of equal opportunity requirements for access.

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 ENV1D (Regional and Local Natural and Built Environment Interests), ENV1G (Design of new Development), ENV3 (Development in the Countryside) and ENV6 (Renewable Energy) of the approved Edinburgh and Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and Undeveloped Coast), NH4 (Areas of Great Landscape Value), ENV7 (Scheduled Monuments and Archaeological Sites), C7 (Core Paths and Other Routes),

T2 (General Transport Impact), DP1 (Landscape and Streetscape Character), DP2 (Design) and DP14 (Trees on or adjacent to Development Sites) of the adopted East Lothian Local Plan 2008.

Material to the determination of the application is the Scottish Government's policy on renewable energy given in Scottish Planning Policy: February 2010.

Scottish Planning Policy on renewable energy states that the commitment to increase the amount of electricity generated from renewable sources is a vital part of the response to climate change. Renewable energy generation will contribute to more secure and diverse energy supplies and support sustainable economic growth. Planning authorities should support the development of a diverse range of renewable energy technologies. Off-shore renewable energy generation presents significant opportunities to contribute to the achievement of Government targets. Although the planning system does not regulate off-shore development, it is essential that development plans take into account the infrastructure and grid connection needs of the off-shore renewable energy generation industry. Development plans should identify appropriate locations for facilities linked to the manufacture, installation, operation and maintenance of off-shore wind farms and wave and tidal devices.

One letter of representation has been received. It is from Network Rail. Whilst they do not object to the proposed development, Network Rail advise that the design and construction of the buried cable route where it crosses underneath the East Coast mainline must be carried out in full agreement with Network Rail. Moreover, the developer must secure a wayleave agreement with Network Rail to route the cable under the railway. A copy of this letter has been forwarded onto the applicant for their information.

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

East Lammermuir Community Council were consulted on this application but have not provided any comments on it.

The proposed onshore electrical transmission infrastructure is an essential component to enable the proposed Neart Na Goithe wind farm to connect into the national electricity grid. Therefore if approval were to be given by the Scottish Ministers for the proposed Neart Na Goithe wind farm there would be an operational justification for the onshore electrical transmission infrastructure having to be formed in this particular countryside location, consistent with the provisions of Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy DC1 of the adopted East Lothian Local Plan 2008. In order to ensure there is an operational requirement for the proposed onshore electrical transmission infrastructure, i.e. that planning permission has been approved for the proposed Neart Na Goithe wind farm, there should be imposed a condition on the grant of planning permission that no development is carried out until it can be demonstrated to the Planning Authority that planning permission has been granted for the proposed Neart Na Goithe wind farm. Subject to the imposition of this condition, the principle of the proposed onshore electrical transmission infrastructure is consistent with Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy DC1 of the adopted East Lothian Local Plan 2008.

The proposed transition pits and on-shore cabling would be sited underground. Consequently they would have minimal impact on the landscape character and appearance of the area, including that of the Thorntonloch Coastline Area of Great Landscape Value.

The site proposed for the new electrical sub-station is set on the lower part of the hilly slopes on which the Crystal Rig Phase II wind farm is located. The proposed electrical sub-station would be seen in relation to the existing electrical sub-station and turbines, pylons and overhead power lines that form part of the Crystal Rig Phase II wind farm. When seen in this context, the proposed sub-station would not appear as an incongruous or alien feature. The substation would be partly cut into the existing sloping ground of the application site. This, together with the sensitive use of landscaping, would further help to integrate the substation into its landscape setting. The proposed sub-station would not harm the landscape character and visual amenity of the Lammermuir Hills Area of Great Landscape Value.

On the consideration of landscape and visual impact, the proposed development is consistent with Policies ENV1D and ENV1G of the approved Edinburgh and Lothians Structure Plan 2015 and Policies DC1 NH4, DP1, DP2 and Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

In his initial consultation response, the Council's Policy and Projects Manager raised some concerns over the landscape impact of the proposed sub-station. The applicant has provided a detailed response to this and has proposed conditions that could be imposed if planning permission for the proposed onshore electrical transmission infrastructure development were to be granted. The Policy and Projects Manager advises that whilst the proposed conditions may overcome his earlier concerns, he continues to recommend that a suitably qualified arborist should be employed to instruct and oversee all protection works to the trees that are on or near the application site. However in the landscape advice received from the Council's Policy and Projects Manager none of the trees which might be potentially affected are identified as being significantly important to the visual amenity of the area. Thus, there is no justification to require that a suitably qualified arborist should be employed to instruct and oversee all tree protection works. On this consideration the proposed onshore electrical transmission infrastructure does not conflict with Policy DP14 of the adopted East Lothian Local Plan 2008.

The onshore electrical transmission infrastructure is promoted as part of the proposed Neart Na Goithe wind farm. It would be prudent to require that the infrastructure be decommissioned if the wind farm were to be approved, constructed, and thereafter decommissioned. This can be secured through a condition attached to a grant of planning permission for the proposed development.

Scottish Borders Council were consulted on this planning application, as the southwest part of the application site is in reasonably close proximity to their authority area. They do not object to the proposed onshore electrical transmission infrastructure.

Scottish Natural Heritage raise no objection to the proposed onshore electrical transmission infrastructure, being satisfied that it would not have an unacceptable landscape or ecological impact. They do however recommend that the details of the installation approach (i.e. horizontal directional drilling or open cut trenching) for the cable landfall area at Thorntonloch beach should be submitted to and approved by the Planning Authority following consultation with Scottish Natural Heritage. This can be secured through a condition attached to a grant of planning permission for the proposed development.

Historic Scotland raise no objection to the proposed onshore electrical transmission infrastructure, being satisfied that it would not result in any significant adverse impacts on

any designed landscape, scheduled ancient monument, listed building or nationally important battlefield.

It is stated in Scottish Planning Policy: February 2010 that archaeological sites and monuments are an important finite and non-renewable resource and should be protected and preserved in situ wherever feasible. The presence and potential presence of archaeological assets should be considered by planning authorities when making decisions on planning applications. Where preservation in situ is not possible planning authorities should through the use of conditions or a legal agreement ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development. If archaeological discoveries are made during any development, a professional archaeologist should be given access to inspect and record them. Planning Advice Note 2/2011: Planning and Archaeology similarly advises.

The Council's Heritage Officer advises that the route of the proposed onshore electrical transmission infrastructure runs through a very rich archaeological landscape. Accordingly he recommends that a programme of archaeological works (evaluation) should be carried out by a professional archaeologist to record any upstanding historical remains and determine whether or not the proposed development would disturb any buried archaeological deposits. This can be secured through a condition attached to a grant of planning permission for the proposed development. This approach is consistent with Scottish Planning Policy: February 2010, Planning Advice Note 2/2011: Planning and Archaeology and with Policy ENV7 of the adopted East Lothian Local Plan 2008.

The Health and Safety Executive raise no objection to the proposed onshore electrical transmission infrastructure.

Marine Scotland have no comment to make on the planning application.

The proposed onshore electrical transmission infrastructure would generally be installed at some distance from residential properties in the area, although there are some individual residential properties as well as the western part of the village of Innerwick that are located in relatively close proximity to the application site. The Council's Environmental Protection Manager has considered this application in respect of the environmental impacts that might arise from it. He does not anticipate any loss of amenity to occupiers of nearby residential properties during the operational phase of the development. The applicant's Environmental Statement identifies a number of potentially significant noise effects that could arise from construction activities. However the Environmental Protection Manager is satisfied that the mitigation measures put forward by the applicant would acceptably mitigate those noise effects. To further protect the amenity of nearby residents during the construction of the proposed onshore electrical transmission infrastructure, he recommends that prior to the commencement of development, a Construction Method Statement should be submitted to and approved by the Planning Authority. The Statement should detail mitigation measures to be employed to control noise/ dust/ construction traffic and should include the proposed hours of working. A Construction Method Statement can be secured through a conditional grant of planning permission for the proposed onshore electrical transmission infrastructure. The implementation of an agreed Construction Method Statement would ensure that the construction activities did not have a significantly harmful impact on the environment or on the privacy and amenity of any nearby properties.

In view of this advice it can be concluded that the proposed onshore electrical transmission infrastructure could be constructed and thereafter operated without occupiers of nearby properties suffering a significant loss of privacy or amenity.



The Council's Transportation service raise no objection to the proposed onshore electrical transmission infrastructure, being satisfied that it would have no significant adverse risk for road safety. They do however recommend that a Traffic Management Plan should be submitted to and approved by the Planning Authority. The Traffic Management Plan should include vehicle tracking and swept path analysis for vehicles entering and exiting the site and should include the provision of visibility splays at all vehicular accesses. Moreover, it should include details of any road closures and suitable alternative routes during the road closures. This requirement can be secured through a conditional grant of planning permission for the proposed onshore electrical transmission infrastructure. Subject to the imposition of this condition, the proposed development is consistent with Policy T2 of the adopted East Lothian Local Plan 2008.

Transport Scotland raise no objection to the proposed onshore electrical transmission infrastructure, although they recommend that a Traffic Management Plan should be submitted to and approved by the Planning Authority following consultation with Transport Scotland. The Traffic Management Plan should include measures to minimise traffic impacts on existing road users and details of construction vehicle routing. Moreover, Transport Scotland recommend that a detailed method statement for the cables crossing under the A1 trunk road should be submitted to and approved by the Planning Authority following consultation with Transport Scotland. These requirements can be secured through a conditional grant of planning permission for the proposed onshore electrical transmission infrastructure.

Scottish Water raise no objection to the proposed onshore electrical transmission infrastructure.

The Scottish Environment Protection Agency (SEPA) raise no objection to the proposed onshore electrical transmission infrastructure, although they recommend that a Construction Environmental Management Plan should be submitted to and approved by the Planning Authority following consultation with SEPA. The Construction Environmental Management Plan should incorporate detailed pollution prevention and mitigation measures for all construction elements potentially giving rise to pollution during all phases of construction. This requirement can be secured through a conditional grant of planning permission for the proposed onshore electrical transmission infrastructure.

As the proposed onshore electrical transmission infrastructure can be installed in an environmentally acceptable manner, the proposed development is consistent with Policy ENV6 of the approved Edinburgh and the Lothians Structure Plan 2015.

## RECOMMENDATION

That planning permission for the proposed onshore electrical transmission infrastructure be granted subject to the following conditions:

- 1 The development hereby approved shall be undertaken in accordance with the Environmental Statement docketed to this planning permission, except where altered by the conditions below, or unless otherwise agreed with the Planning Authority in writing.

Reason:

To ensure that the reported likely environmental impacts of the development are not exceeded and the mitigation measures are put in place.

- 2 There shall be no commencement of the Development until it can be demonstrated to the Planning Authority that consent under Section 36 of the Electricity Act 1989 has been granted by the Scottish Ministers for the Neart Na Gaoithe offshore wind farm.

Reason:

To ensure there is an operational requirement for the onshore electrical transmission infrastructure.

- 3 Prior to the commencement of the development hereby approved, an appropriately experienced and qualified Ecological Clerk of Works (ECoW) shall be appointed following consultation with the Planning Authority and SNH. An ECoW appointed in accordance with this condition shall be in post during appropriate stages of the construction phase of the development, as agreed in writing with the Planning Authority. The ECoW's scope of work shall include monitoring compliance with the mitigation measures within the Environmental Statement and the conditions of this planning permission.

Reason:

To minimise environmental impacts during the construction phase of the development.

- 4 Prior to the commencement of the development hereby approved, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA, SNH and, in respect of issues relating to the inter-tidal area, Marine Scotland.

The CEMP shall, unless otherwise agreed with the Planning Authority in writing, include the following details:

- (a) Construction Method Statements, which shall include details of the crossing methods to be utilised along the cable route including, if appropriate, the placing in ducts of any cables laid under public roads. The Construction Method Statements shall also recommend mitigation measures to control noise and shall include hours of operation for construction work;
- (b) Pollution prevention monitoring and mitigation measures for all construction activities;
- (c) Reinstatement following the completion of the construction of the cable route, including the reinstatement of agricultural land, drainage systems and landscape resources;
- (d) Dust and air quality management plan;
- (e) Soil resource management plan, including a map showing locations of stockpiles of excavated materials, details of use and/or disposal of unsuitable subsoil, details of the management and mitigation of soil resources in accordance with best practice;
- (f) Construction noise and vibration management plan, including identification of access routes, locations of laydown areas, equipment details, details of operation, scheduling or works, mitigation measures and a scheme for noise monitoring in the event of complaints;
- (g) Habitat resource management plan for the cable route and substation, including details of tree/hedgerow removals and replacements, and the use of protective fencing and ground protection (in accordance with BS5837\_2012 "Trees in relation to design, demolition and construction ~ Recommendations"), tree root protection methods, and other appropriate mitigation measures;
- (h) Peat Management Plan; and
- (i) The installation approach (i.e. horizontal directional drilling or open cut trenching) for the cable landfall area at Thorntonloch beach.

The development shall thereafter be carried out in accordance with the approved CEMP unless otherwise agreed with the Planning Authority in writing.

Reason:

To minimise environmental impacts during the construction phase of the development.

- 5 Prior to the commencement of the development hereby approved an Access Management Plan (AMP) shall be submitted to and approved in writing by the Planning Authority after consultation with SNH. The Access Management Plan shall detail proposals for maintaining and managing public access across the application site during the period of the development without compromising applicable health and safety requirements.

The development shall thereafter be carried out in accordance with the approved Access Management Plan unless otherwise agreed with the Planning Authority in writing.

Reason:

To minimise the impact the development on public access across the application site.

- 6 Prior to the commencement of the development hereby approved, a Traffic Management Plan (TMP) for the construction phase of the development shall be submitted to and approved in writing by the Planning Authority, after consultation with Transport Scotland. The TMP shall, unless

otherwise agreed with the Planning Authority in writing, include the following details:

- a) details of identified routes to and from the construction site;
- b) details of construction compounds and details of construction access points;
- c) specific arrangements relating to the transportation of abnormal loads and procedures to ensure pedestrian safety adjacent to working areas;
- d) arrangements for minimising disruption to road users and pedestrians in those locations where open cut trenching crosses a public or private road;
- e) details of any off-site mitigation works;
- f) co-ordination of traffic movements with other major transport users;
- g) arrangements for the cleaning of wheels and chassis of construction traffic to prevent material being carried onto the public road;
- h) details of temporary construction car parks associated with the construction compounds;
- i) details of trees to be protected from construction traffic in accordance with BS5837:2012;
- j) a condition dilapidation survey, the scope of which will be agreed in advance with East Lothian Council; and
- k) A Green Travel Plan to include measures to minimise dependency on the private car to and from the construction compounds.

The TMP shall also include vehicle tracking and swept path analysis for vehicles entering and exiting the site and details of the provision of visibility splays at all vehicular accesses. It shall also include details of any road closures and suitable alternative routes during the road closures.

The development shall thereafter be carried out in accordance with the approved TMP unless otherwise agreed with the Planning Authority in writing.

Reason:

In the interests of road safety.

- 7 Prior to the commencement of the development hereby approved, a Site Waste Management Plan (SWMP) shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA. The SWMP shall, unless otherwise agreed with the Planning Authority in writing, include the following details:

- (a) Details of the waste management measures to be implemented during the construction phase, including the steps to be taken to maximise the quantity of waste to be re-used and recycled;
- (b) The types and quantities of waste expected to arise during the construction phase of the Development;
- (c) The identification of the contractors to be used to ensure the waste is correctly recycled or disposed of responsibly and legally;
- (d) Information on how the quantity of waste will be measured; and
- (e) Identification of responsible personnel.

The development shall be carried out in accordance with the approved SWMP unless otherwise agreed with the Planning Authority in writing.

Reason:

In order to minimise waste during construction and to ensure that it is properly managed.

- 8 Prior to the commencement of the development hereby approved the following details, including proposed timescales, shall be submitted to and approved in writing by the Planning Authority, after consultation with SNH:

- (a) The siting, design, external appearance and dimensions of the substation and any other permanent above-ground features, and a schedule of materials and finishes; and
- (b) The proposed levels of any earthworks and the design of permanent fencing and boundary walls.

The development shall thereafter be carried out in accordance with the approved details unless otherwise agreed with the Planning Authority in writing.

Reason:

In the interests of the landscape character and appearance of the Lammermuir Hills Area of Great Landscape Value.

- 9 No development shall take place until there has been submitted to and approved in writing by the

Planning Authority a scheme of landscaping. The scheme shall provide details of : the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

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

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 10 Prior to the commencement of the development hereby approved, a substation drainage strategy shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA. Thereafter, the development shall be carried out in accordance with the approved drainage strategy unless otherwise agreed with the Planning Authority in writing.

Reason:

To ensure that a suitable drainage strategy is implemented.

- 11 Prior to the commencement of the development hereby approved, a survey of European Protected Species (EPS) will be carried out within the Development site. Based on the findings of these surveys, if required, a Protected Species Management Plan shall be submitted to and approved in writing by the Planning Authority after consultation with SNH. The Protected Species Management Plan shall include mitigation measures designed to safeguard any EPS within the application site. During the construction phase of the development regular monitoring of the mitigation measures in the Protected Species Management Plan shall be carried out by the Company, or its representative.

The development shall thereafter be carried out in accordance with the approved Protected Species Management Plan unless otherwise agreed with the Planning Authority in writing.

Reason:

To minimise disturbance to protected species during the construction phase of the development.

- 12 No development shall take place until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work on the site of the proposed development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 13 Within 24 months of the permanent cessation of generation at the offshore wind farm, the Company shall confirm in writing to the Planning Authority whether or not the development hereby approved continues to be required for electricity transmission purposes.

Where the development is not required for electricity transmission purposes beyond the operational period of the offshore wind farm, within 24 months of the permanent cessation of generation at the offshore wind farm, a decommissioning and site restoration plan (the 'Demolition and Restoration Scheme') shall be submitted to and approved in writing by the Planning Authority. The Demolition and Restoration Scheme shall have due regard to the Decommissioning Programme prepared in respect of the offshore wind farm and shall include details of:

- (i) The extent of substation and cable infrastructure to be removed and details of site restoration;
- (ii) Management and timing of works;
- (iii) Environmental management provisions; and
- (iv) A traffic management plan to address any traffic impact issues during the decommissioning period.

The Demolition and Restoration Scheme shall be implemented in its entirety, unless otherwise

agreed with the Planning Authority in writing.

Where the Development is required for electricity transmission purposes beyond the operational period of the offshore wind farm, within 24 months of the development no longer being required for electricity transmission purposes, a decommissioning and site restoration plan (the 'Demolition and Restoration Scheme') shall be prepared by the Company and shall be submitted to and approved in writing by the Planning Authority. The Demolition and Restoration Scheme shall include details of:

- (i) The extent of substation and cable infrastructure to be removed and details of site restoration;
- (ii) Management and timing of works;
- (iii) Environmental management provisions; and
- (iv) A traffic management plan to address any traffic impact issues during the decommissioning period.

The Demolition and Restoration Scheme shall be implemented in its entirety, unless otherwise agreed with the Planning Authority in writing.

Reason:

To ensure that the application site is satisfactorily restored in the interests of the amenity of the area.

- 14 Prior to the commencement of the development hereby approved, proposals for the realignment of existing access tracks shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be carried out in accordance with approved details unless otherwise agreed with the Planning Authority in writing.

Reason:

To minimise the impact the development on public access within and across the application site.

- 15 Prior to commencement of the development hereby approved a detailed method statement for the cables crossing under the A1 trunk road should be submitted to and approved by the Planning Authority following consultation with Transport Scotland.

The development shall thereafter proceed in accordance with the details so approved.

Reason:

In the interests of road safety.

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