

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 3 September 2013  
**BY:** Depute Chief Executive  
(Partnership and 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 Councillors McMillan (1) and Trotter (2) for the following reasons: (1) Given the comments in the report "...given the absence of specific planning policy relating to the provision of gypsy/traveller sites in the development plan..." I would like the Committee and the Community to have an opportunity to explore the Council's strategy in relation to this issue and the identification of "...suitable locations for meeting the needs of Gypsies and Travellers..." and (2) to have this application discussed before the full Committee.*

Application No. **13/00105/P**

Proposal Change of use of agricultural land and part change of use of yard (class 4 use) for use as 2 individual permanent Gypsy Traveller pitches (3 caravans per pitch), alterations and part-change of use of building in class 4 use to shower/toilet facility, siting of 2 utility units, formation of raised decking/hardstanding areas, erection of fencing and gates (part retrospective)

Location **8A West Garleton Holdings  
Haddington  
East Lothian  
EH41 3SJ**

Applicant Mr Eddie Grey and Family

Per Forbes R-S Marr Architect and Town Planning Consultant

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

This application relates to the site of 8A West Garleton Holdings, which occupies a countryside location to the north of Haddington. The site is on the west side of the A6137 public road to the north of a covered reservoir. The application site comprises a building and land in Class 4 business use and an adjacent area of agricultural land, together measuring some 1180 square metres in area.

Planning permission is sought for:

- (i) the change of use of the agricultural land of the site and for the part change of use of the land in Class 4 business use for use as 2 individual permanent gypsy/traveller pitches (3 caravans per pitch);
- (ii) alterations to and the part change of use of the building in class 4 business use to use as a shower/toilet facility;
- (iii) the siting of 2 utility units;
- (iv) the formation of raised decking/hardstanding areas; and
- (v) the erection of fencing and gates.

Planning permission is sought part retrospectively as the agricultural land and part of the land in Class 4 business use have both been changed in use to 2 individual permanent Gypsy Traveller pitches (2 caravans on 1 of the pitches), the alterations to and the part change of use of the building in class 4 business use to use as a shower/toilet facility have been carried out and commenced, there are caravans on one of the pitches, 1 utility unit has been sited and some fencing has been erected.

The land of the application site slopes gently downwards in a northerly direction. It is enclosed on its east side by high roadside boundary hedging and trees, which boundary enclosure extends along other parts of the west side of the A6137 public road to the north and south of the application site. Adjacent to the north boundary of the site is the banked slope of the raised covered reservoir. Some 30m to the north of the north boundary of the site is an existing tree belt. To the west are agricultural fields.

In a supporting statement received with the application it is stated that the applicants are self-declared gypsy/travellers. They seek planning permission to establish this site as a permanent pitch stating there is no safe, secure, suitable, equitable alternative authorised site in East Lothian. Moreover the applicant is able to operate their business from the existing authorised yard and building in class 4 business use at the site. The site also has good connections to Haddington, hospitals, schools, colleges and community services, with the applicant's children attending East Lothian schools and the applicants themselves being registered with an East Lothian surgery.

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 South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), 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.

Also material to the determination of the application is the Scottish Government's policy on housing given in Scottish Planning Policy: February 2010.

A total of 91 written representations have been received in respect of this planning application. Of these, 22 make objection to the development and 69 express support for it. Many of the written objections endorse the grounds of objection submitted by one of

the objectors. All of the written representations of support for the application take the form of a pro forma letter.

The main grounds of objection can be summarised as follows:

- (i) the site is not suitable for such development;
- (ii) the application should be assessed against Policy DC1 of the of the adopted East Lothian Local Plan 2008 as new housing development in the countryside;
- (iii) the use of the site would harmfully impact on the amenity of nearby residential properties;
- (iv) the vehicular access to the site is unsafe;
- (v) national policy does not allow gypsy/traveller sites within the boundary of a settlement;
- (vi) matters of drainage and sewerage; and
- (vii) the authorised use of the existing shed is agricultural and not Class 4 business.

It is not stated in any of the written objections what national policy is being referred to.

Matters of drainage and sewerage are dealt with through legislation other than planning legislation.

Through an investigation of the use of the site by the Council's planning enforcement service it was established the authorised use of the existing shed is as Class 4 business use.

The grounds of support for the application are that:

- (i) the gypsy/traveller use of the site is entirely consistent with Council policy;
- (ii) the Council needs to support the very special accommodation needs of the applicant and his family; and
- (iii) the Scottish Government supports private permanent pitches to meet the needs of Scottish Travellers as they are a recognised ethnic minority.

The Royal Burgh of Haddington and District Community Council, as a consultee on the application object to it on the grounds that, (i) there is future potential to the site to be extended, (ii) the use of the site for gypsy/travellers is not consistent with the provisions of Policy DC1 of the of the adopted East Lothian Local Plan 2008, and (iii) concerns over the use of an existing septic tank.

Any proposed future change of use of the surrounding agricultural land to use as an extension to the land of the application site for gypsy/traveller use would have to be the subject of a future application for planning permission which would be assessed on its own merits.

The Council's Corporate Policy and Performance Team confirm that a 2008 employment tribunal determined that Gypsy Travellers are a distinct ethnic group and therefore protected by equalities legislation in the form of the Equalities Act 2010. There is no

burden of proof on any group so protected. As such any person or household may declare themselves as being gypsy/travellers.

The Corporate Policy and Performance Team further confirm that the Scottish Census 2011 recognised the specific category of gypsy/traveller as a distinct ethnic group covered by law, and which group has been added to the population profile.

It is stated in paragraph 90 of Scottish Planning Policy: February 2010 that Gypsies and Travellers have specific housing needs, often requiring sites for caravans and mobile homes. Given the typically transitory nature of Gypsies and Travellers, provision should be made for those communities which are in an area already and those who may arrive at a later date. Planning authorities should identify suitable locations for meeting the needs of Gypsies and Travellers and set out policies about small privately owned sites. Gypsy and Traveller communities should be involved in decisions about sites for their use.

The development plan does not contain any specific planning policy relating to the provision of gypsy/traveller sites.

Although Policy DC1 of the adopted East Lothian Local Plan 2008 sets out the criteria against which new tourism development and new housing development proposals in the countryside of East Lothian may be acceptable it does not contain any criteria in which to assess the provision of gypsy/traveller sites.

The Council's Policy and Projects Manager confirms that the provision of gypsy/traveller sites should not be treated as representing housing or tourism development and that the policy provisions of Policy DC1 for such development types cannot be applied in this instance. He also advises that it would be appropriate for any such site to be in a countryside settlement rather than within the boundary of a settlement as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

Other than the above reference in Scottish Planning Policy: February 2010 there is no specific national planning policy guidance on the issue of gypsy/traveller site provision. In the absence of detailed planning guidance at national level and planning policies at local level recent planning appeal cases have confirmed that the following advice may be accorded weight when assessing such planning proposals:

\* The Secretary of State's Advisory Committee on Scotland's Travelling People (ACSTP) 'Guidance Notes on Site Provision for Travelling People': October 1997, and;

\* The ACSTP's Ninth and Final Report: 1998-1999 (adopted by the Scottish Executive in November 2000).

The ACSTP 'Guidance Notes on Site Provision for Travelling People': October 1997 states that applications for planning permission in respect of private gypsy/traveller sites should be sympathetically considered, noting that the principle task continues to be the provision of long stay sites. It notes that there is no such thing as the perfect location for gypsy/traveller sites with compromise being necessary to identify suitable locations. In this it sets out criteria which should be addressed when considering proposals for gypsy/traveller sites including, (i) sites being accessible to a main road network, (ii) sites shouldn't be too remote to allow the possibility of social integration, (iii) sites should be suitably screened or have the potential for screening, (iv) the location of sites should offer some prospect for gypsy/travellers to seek work opportunities in the area, (v) sites should be located within reasonable proximity to schools, and (vi) sites should be within reasonable proximity to as broad a range as possible of community facilities.

The ACSTP's Ninth and Final Report: 1998-1999 advises that applications by gypsy/travellers to develop a small site with one or two ancillary buildings should be treated as 'agricultural' as opposed to 'residential' development, in the recognition that the type of accommodation required and the types of vehicles involved are more akin to that form of development. It also advises that caravans are relatively small so a second caravan may be necessary to allow privacy for the elderly, teenagers and young people who still reside with their families and that the caravans of visitors who stay overnight, for a break or during family illness, will need to be accommodated.

The application site is not within a settlement. Nor are the relatively nearby houses of West Garleton designated as a settlement by the East Lothian Local Plan 2008.

The site is accessed from the A6137 public road and as such has easy access and connectivity to the surrounding road network. There are also good public transport links close to the site.

In being only some 1.6 kilometres north of Haddington and with good transport links to other towns and villages in East Lothian, as well as Edinburgh, the site allows the possibility of social integration, offers prospects for gypsy/travellers to seek work opportunities in the area and is located within reasonable proximity to schools and community facilities. Indeed the applicants' supporting statement recognises this with the applicants' children attending East Lothian schools and the applicants themselves being registered with an East Lothian surgery.

By being enclosed on its east side by high roadside boundary hedging which extends along other parts of the west side of the A6137 public road to the north of the application site, having the banked slope of the raised covered reservoir on its south side and with a tree belt some 30m to the north of it, the site is well contained within its landscape setting. It is mostly hidden from public views from the A6137 public road. Moreover the application drawings show an intention to undertake extensive tree and hedge planting at the site which would further integrate it into its countryside setting.

It is proposed that each gypsy/traveller pitch have one principle caravan with the opportunity of siting an additional 2 caravans, which the applicant states would be for additional accommodation and visitor accommodation if necessary. There would also be a utility unit for each pitch on the site as well as the opportunity for the part use of the existing building for gypsy/traveller use. The ACSTP's Ninth and Final Report: 1998-1999 recognises these necessities in the development of small gypsy/traveller sites.

In all of the above, and given the absence of specific planning policy relating to the provision of gypsy/traveller sites in the development plan, the use of the site as 2 individual permanent gypsy/traveller pitches is considered consistent with the recommendations for site selection and criteria as set out in The Secretary of State's Advisory Committee on Scotland's Travelling People (ACSTP) 'Guidance Notes on Site Provision for Travelling People': October 1997 and the ACSTP's Ninth and Final Report: 1998-1999 and thus in such circumstance can be supported, consistent with Scottish Planning Policy: February 2010. However to reflect the specialised nature of the proposal a condition should be imposed on a grant of planning permission to restrict occupation of each pitch to a single declared gypsy/traveller household.

The site is well contained and screened within its landscape setting, which would be enhanced by the proposed planting meaning public views of the site are extremely limited. Thus the existing and proposed caravans, the alterations to and the part change of use of the building in class 4 business use to use as a shower/toilet facility, the existing

and proposed 2 utility units, the proposed raised decking/hardstanding areas and the erection of fencing and gates that would facilitate the use of the land as 2 individual permanent gypsy/traveller pitches would be contained and would not harmfully impact on their countryside environment. In their location, neither individually nor cumulatively do they or would they appear harmfully prominent, intrusive, exposed or incongruous in their landscape setting.

The Council's Policy & Projects Manager is supportive of the landscape planting proposed by the applicant and additionally recommends that 3 more trees be planted and advises on species of hedging to be incorporated into the hedge planting. These matters can be made a condition of the grant of planning permission.

Subject to the requirement for the above mentioned landscape recommendations, on these design and landscape considerations the proposals are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies DC1 Part 5, DP2 and DP14 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service raises no objection to the application, satisfied that it can be safely accessed with no resultant consequences for road safety, and that sufficient parking and turning areas are to be provided. Consequently the proposals are consistent with Policy T2 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Manager raises no objection to the application, being satisfied that the site is and can be used without harm to the amenity of the countryside area in which it is located, or to any nearby residential property.

Scottish Water raise no objection to the application, advising that they have capacity to serve the site.

#### CONDITIONS:

- 1 Each of the two individual permanent gypsy/traveller pitches hereby approved shall only be occupied by a single declared gypsy/traveller household.

Reason:

To restrict the extent of use of the pitches to that applied for and to reflect the specialised nature of the gypsy/traveller site proposal.

- 2 The access arrangements and the parking and turning areas all as hereby approved, shall be laid out as shown on the docketed drawing titled 'PLAN 2 LAYOUT PLAN' and thereafter shall be retained for such uses.

Reason:

In the interests of road safety.

- 3 A scheme of landscape planting shall be carried out, details of which shall be submitted to and approved by the Planning Authority. The scheme shall provide details of: the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, siting, planting distances and a programme of planting. The details shall generally be in accordance with that shown on the docketed 'PLAN 2 LAYOUT PLAN' drawing and shall include 3 trees to be planted on the western boundary of the site adjacent to the approved pitch 2 and a mixed species of hedging containing evergreen species to give year round screening. The scheme shall include indications of all existing trees and hedgerows on the land.

All planting comprised in the approved details of landscaping shall be carried out in the next planting and seeding season following the grant of this planning permission. In the event that any trees or plants are removed or become seriously damaged or diseased within a period of 5 years following planting they shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

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.

*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 Trotter for the following reason: Because of the concern this application has raised locally this should be heard at Committee level.*

Application No. **13/00499/P**

Proposal                      Erection of 1 house, fencing and gate and formation of vehicular access and turning area

Location                      **Land Adjacent To Post Office  
Humbie  
East Lothian  
EH36 5PJ**

Applicant                      Mr Alex Clowes

Per                                Gary Anderson

RECOMMENDATION              Consent Granted

#### PLANNING ASSESSMENT

The application site is within the predominantly residential area of the village of Humbie, as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

The land of the application site measures some 252 square metres and is generally level. It is undeveloped and is used informally for the parking of vehicles. It is bounded to the north by the driveway of the single storey house of Browseat House, with agricultural land beyond. It is bounded to the east by the land and building of a British Telecom telephone exchange, beyond which is the house and garden of Browseat House. To the west the land is bounded by the A6137 classified public road, on the opposite side of which are residential properties, and to the south are Humbie Post Office and Post Office House and its garden ground.

On 2nd October 2008 planning permission in principle 08/00531/OUT (formerly known as outline planning permission) was granted for the principle of the erection of 1 house on the land adjacent to Post Office and Post Office House, Humbie.

Condition 3 of planning permission 08/00531/OUT sets the following design principles for a house built on the site: (i) the house should be no higher than single storey or single storey with accommodation in its roof space in height; (ii) the house should be positioned on the site such that its front building line would be in line with the front building line of Post Office and Post Office House; (iii) the house should have a footprint no larger than that shown on the indicative layout drawing no. B.767/F docketed to planning permission in principle 08/00531/OUT; and (iv) the house should be designed to have a pitched roof clad with either natural slates or interlocking tiles. Condition 3 also set requirements for the standard of provision of on-site car parking and vehicular access and turning, for the means of enclosure of the site boundaries and to restrict the provision of windows and other glazed openings in the south elevation wall of the house. No subsequent application for the approval of matters specified in conditions of planning permission in principle 08/00531/OUT has been submitted.

On 27th September 2011 planning permission 11/00640/P was granted for the variation of Condition 1 of outline planning permission 08/00531/OUT to extend the time period for the submission of the approval of matters specified in conditions of planning permission in principle 08/00531/OUT by a further 3 years. Thus planning permission in principle 08/00531/OUT remains extant.

In February 2013 planning application 13/00074/P was submitted for the erection of 1 house, fencing and a gate and for the formation of a vehicular access and turning area. Planning application 13/00074/P was subsequently withdrawn, the reasons being that it became apparent that the applicant did not own all of the land of the application site, that a narrow strip of land along the northern side of the site was in the ownership of the owners of Browseat House and that there was insufficient space within the site to allow a vehicle to turn within the site and thus to enter and leave the public road in a forward gear.

The current planning application reflects the reduced site area through the removal of the narrow strip of land along the northern side of the site.

Full planning permission is now sought for the development of the smaller site for the erection of 1 house, the erection of boundary fencing, walls and a gate, and for the formation of a vehicular access and hardstanding area.

The proposed detached house would have a roughly rectangular footprint and would be positioned on the site so that its principal front (west) elevation wall would be in alignment with the front (west) elevation wall of Post Office and Post Office House. It would be single storey in height with accommodation in its roof space. Its roof ridge would be no higher than the roof ridge height of Post Office and Post Office House to the south.

The proposed house would generally be of a traditional architectural form but would have contemporary architectural features. It would have relatively large amounts of glazing on its north and east elevation walls. Its dual pitched roof would be clad with interlocking concrete roof tiles and its external walls would be finished with a combination of reconstituted stone and cream coloured pebbledash render, with horizontal timber board cladding feature panels. There would be two cat-slide roofed dormers on its front (west) elevation roof slope and one large cat-slide roofed dormer on its rear (east) elevation roof slope. The frames of its windows, patio doors and external doors would be of aluminium composite construction and would be coloured anthracite grey.

It is proposed that there would be a narrow strip of garden ground to the north side of the house and a larger area of garden ground to the east side of it. A driveway, turning area

and parking for at least two cars would be provided to the west and south sides of the house.

The proposed hardstanding areas would comprise of a driveway, turning and parking area to be formed to the west and south sides of the proposed house and a footpath and patio area that would be formed to the east side within the rear garden area.

New 1.8 metres high timber close boarded fencing would enclose the boundaries of the rear garden of the proposed house and would also be erected along the majority of the south boundary of the site adjacent to the proposed driveway, with the exception of the first 2.8 metres of that boundary measured back from the west boundary of the site which would be enclosed by a 600mm high rendered wall. Part of the west (roadside) boundary of the site and the remaining part of the north boundary of the site would be enclosed by a 600mm high hedge.

It is intended that the vehicular access to the proposed new house plot would be taken from the B6137 public road. A parking and turning area would be provided within the proposed new house plot in the form of a driveway that would be positioned to the west and south sides of the house.

Since the application was registered the layout of the proposed development has been amended to show the retention of a sufficient width of public footpath space to be provided at the northwest corner of the proposed house plot and to provide details of the proposed 600mm high rendered boundary wall. These changes are shown on amended application drawings.

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 South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

The proposed development would be infill housing development of land that is within a predominantly residential area of the village of Humbie. On this matter there are no policies of the approved South East Scotland Strategic Development Plan (SESplan) relevant to the determination of the application.

Relevant to the determination of the application are Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

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.

Scottish Planning Policy on housing states in paragraph 82 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 enhances 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.

Another material consideration in the determination of this application are the principles of development set for the site by the grant of planning permission in principle 08/00531/OUT (formerly known as outline planning permission).

Twenty written representations to the application have been received. They are from neighbouring properties. The representations all raise objections to the proposed development and the grounds of objection as summarised are that:

1. the building and development are inappropriate for this community and would not be in keeping with the village;
2. the application site still includes a narrow strip of land that is owned by the owner of the neighbouring house of Browseat;
3. the site is not of a sufficient size to build a house with parking and turning area;
4. the land of the site should be retained for community parking and other uses;
5. the application drawings do not show the position of a lamppost and telephone box;
6. there is no public footpath on the east side of the public road and the proposed development will prejudice the provision of one;
7. the development of the site for a house would prevent its use for any future community benefit;
8. the potential redevelopment of the post office/shop is of great importance to the community and this proposal may affect its viability;
9. the proposed development would obstruct views from the houses on the opposite side of the public road;
10. the proposal is to cram a big house on a tiny plot and is inappropriate within the village and community of Humbie;
11. the loss of this area of land for parking will make parking and turning at the shop more difficult and dangerous, which would mean loss of customers for the shop/post office and could mean the loss of the shop, which would make living in Humbie more difficult;

12. if the hedge along the front boundary of the site becomes overgrown it would block visibility for vehicles and children leaving the post office/shop;

13. there is insufficient garden ground for the proposed house;

14. construction vehicles would cause congestion and obstruction on the road;

15. the proposals may obstruct light to neighbouring properties; and

16. the proposed house would be two storeys in height and would not be in keeping with the locality.

The loss of a view or outlook is not a material consideration in the determination of an application for planning permission.

The matter of the lamppost and telephone box not being shown on the application drawings does not have a material impact on the assessment of the application for planning permission.

The matter of the relocation of the lamppost is controlled by the Council's Street Lighting Officer and requires separate consent. It is not a material consideration in the determination of an application for planning permission.

The application site has been reduced in size following the withdrawal of planning application 13/00074/P in order to remove from it a narrow strip of land along the northern side of the site that was not owned by the applicant but is owned by the owners of the neighbouring residential property of Browseat House. A representation was received on behalf of the owners of Browseat commenting that the application site still includes land in their ownership. The Representor was contacted on this matter and it became apparent that the representation had been submitted based on the application site area shown on a neighbour notification plan not the application drawings. Upon investigation it was evident that the application site area shown on the neighbour notification plan had been plotted incorrectly. This has now been rectified and the neighbours have been re-notified with an amended plan attached. A further representation made on behalf of the landowner of the neighbouring property of Browseat has confirmed that the application site does not include land within their ownership.

Humbie, East and West Saltoun and Bolton Community Council, as a statutory consultee to the application, raise objection to the proposed development on the grounds that:

(i) the development of this site will compromise the future and viability of the village's only commercial hub as the site is used for parking by customers of the post office/shop, which is a facility critical to sustaining Humbie as a vigorous and thriving community;

(ii) the development will lead to traffic reversing onto the B6368 close to a series of bends with limited visibility;

(iii) the development would further reduce pedestrian access to the war memorial from this part of the village; and

(iv) the lack of garden space for the house makes the development inappropriate for this rural location.

The application site is comprised of brownfield land within the village of Humbie and is part of a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. 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 use of its area of coverage is safeguarded against the impacts of uses other than housing. Policy ENV1 does however state that infill and backland development will be assessed against Policy DP7 of the adopted East Lothian Local Plan 2008.

As a brownfield site within the predominantly residential area of the village of Humbie the application site is bounded to the west, east and south by residential properties. The erection of a house on the site would amount to infill housing development within a predominantly residential area. As established by the grant of planning permission in principle 08/00531/OUT the principle of infill housing development of this urban site is supported by current Government planning policy guidance on urban infill housing development given in SPP and by Policy DP7 of the adopted East Lothian Local Plan 2008.

The grant of planning permission in principle 08/00531/OUT established the principle of an infill housing development of the site by the erection on it of one detached pitched roofed house, no greater than single storey in height with accommodation in its roof space, positioned on the site with its front elevation in alignment with the front elevation of Post Office and Post Office House and with natural slate or interlocking tile clad roof, all so as to be in keeping with the built form of the village.

Thereafter the considerations in this case are whether, having regard to national, strategic and local planning policies, guidance and other material considerations, and the principles of development set for the site by the grant of planning permission in principle 08/00531/OUT the design, positioning and layout of the proposed development and the works associated with this are acceptable, with due regard to their potential impact on the character and residential amenity of the area, including their impact on the amenity of neighbouring residential properties.

As the principle of infill housing development of the site for the erection of one house is already established by the grant of planning permission in principle 08/00531/OUT there can be no objection in principle to the development of the site as now proposed.

Policy DP7 of the adopted East Lothian Local Plan 2008 states that, amongst other principles of development, infill, backland and garden ground development must by its scale, design and density be sympathetic to its surroundings and should not an overdevelopment of the site. This is in line with the requirements of Scottish Planning Policy: February 2010 that planning authorities should ensure that where infill sites are assessed as suitable for development, proposals respect the scale, form and density of the surroundings and enhances the character and amenity of the community.

The village of Humbie mostly has a single sided layout on the northwest side of the A6137 road, and otherwise is comprised of the small grouping of buildings of the Post Office, Post Office House and Browseat House and the land of the application site, all of which are on the southeast side of the A6137. There is some backland development to the rear of the properties of the northwest part of the village that have frontages with the A6137. The houses and other buildings of the village are of a varied layout and density. The ratio of built form to undeveloped garden ground of the properties immediately surrounding and opposite the application site varies between 17% and 25%. There is no distinct building line on the southeast side of the A6137 public road, however, as the Post Office and Post Office House are attached to one another they provide a guide for the

positioning of a house on the application site. The houses adjacent to and opposite the application site are single storey in height, some with accommodation in their roof spaces. The building materials in the village vary between natural stone, painted render and dry dash render finishes to walls and natural slate or tiles to roofs.

The proposed detached house would be single storey in height with accommodation in its roof space. At some 6.45 metres high it would be no higher than the neighbouring buildings of the Post Office and Post Office House to the south. The proposed house would be orientated with its main frontage facing west towards the B6137 public road. The front (west) elevation wall of the proposed house would be positioned so that it would be in alignment with the front (west) elevation wall of the Post Office and Post Office House to the south. As so positioned and orientated and by virtue of its height, the proposed house would be in keeping with the height and positioning of the neighbouring built form of Humbie village.

The houses and other buildings of Humbie village are of a varied layout and density. The ratio of built form to undeveloped garden ground of the properties immediately surrounding and opposite the application site varies between 17% and 25%. One of the design principles of the grant of planning permission in principle 08/00531/OUT was that the proposed house should have a footprint no larger than that shown on the indicative layout drawing no. B.767/F docketed to planning permission in principle 08/00531/OUT. That indicative footprint was some 73 square metres in area and amounted to some 27% of the application site.

The proposed house would have a footprint of some 80.8 square metres which would amount to a ratio of built form to undeveloped garden ground of some 32% of the application site. This increase in the ratio of built form to undeveloped garden ground is partly due to the reduction in the size of the application site. The footprint of the proposed house would be only some 7.8 square metres larger than that of the indicative footprint of planning permission in principle 08/00531/OUT. The 32% ratio of built form to undeveloped garden ground would be somewhat greater than that of the surrounding properties. However, due to the openness of the agricultural land to the north and the British Telecom exchange site to the east, this extent of greater density would not be so significant as to result in it appearing to be of such a higher density than the surrounding properties so as to be harmful to the pattern and density of the built form of the village.

In keeping with the built form and architectural design of the houses and other buildings of Humbie, the proposed house would have a dual pitched roofed form. The houses and buildings of the village are of varied architectural designs. The design of the proposed house combines both traditional and contemporary features in a manner that would sit comfortably with the architectural form and design of the existing neighbouring houses and buildings. Its dormers would be of a traditional proportion and cat-slide roofed form. There are a variety of dormers on some of the houses of the village, including a large flat roofed dormer positioned high up on the front (west) elevation roof slope of the neighbouring Post Office House. In such context the cat-slide roofed dormers of the front (west) elevation roof slope of the proposed house would not appear dominant on the roof slope of the proposed house and would not be harmfully intrusive, dominant or incongruous within the context of the built form of the village or the wider landscape setting. Due to its positioning on the rear (east) elevation of the proposed house, where only its north side cheek would be visible in public views, the large cat-slide roofed dormer would also not be harmfully intrusive, dominant or incongruous within the context of the built form of the village or the wider landscape setting. With its traditional dual pitched roofed form and architectural features of dormers and window and door bands, the architectural form and design of the proposed house would be sufficiently in keeping

with the built form and architectural design of the houses and other buildings of Humbie so as not to appear harmfully incongruous with its landscape setting.

In addition to its traditional proportionality the proposed house would be finished externally in a palette of external finishes (mainly pebbledash rendered walls with reconstituted stone base course and quoins and a roof clad with dark grey interlocking tiles) that would sit comfortably with and be in keeping with the external finishes of the neighbouring houses and buildings.

Furthermore the frames of the windows of the neighbouring building of Post Office and Post Office House to the south are painted/stained a dark brown colour therefore, the dark colouring of the frames of the windows and external doors of the proposed house would not appear incongruous within the context of such finishes in the village.

In its roadside location the proposed house would be readily visible in public views from the B6137 public road. By virtue of its size, height, positioning, form, massing and external finishes the proposed house would not appear intrusive, incongruous or exposed within its wider setting. It would sit comfortably in its positional relationship with neighbouring houses and buildings, would not be an incongruous addition to the pattern and density of the built form of the village and would not be harmful to the character of the built form of the village or of the wider area.

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

The proposed hardstanding areas to be formed to the west, south and east of the proposed house would provide off-street parking spaces for at least two cars, a turning area, a footpath and a paved patio. The parking and turning areas and the footpath would be surfaced with mono-block paving. The patio area would be surfaced with paving slabs. These hardstanding areas, in their relationship with the proposed house, would not be untypical features for the garden of a house. The proposed footpath and patio would not be readily visible due to being enclosed within the rear garden of the proposed house. The proposed driveway and turning area would be readily visible in public views from the B6137 public road. In such views the proposed driveway and turning area would not be harmful to the character and appearance of the house, the built form of the village or of the wider area.

Boundary enclosures to the roadside frontages of the houses on the opposite side of the B6137 public road are generally under 1 metre in height. The proposed boundary enclosures to the roadside frontage of the proposed house, part of the south boundary and along much of the north boundary of the site would be only some 600mm high and thus would be in keeping with the character of the roadside boundary enclosures of this part of the village. The 1.8 metres high timber screen fencing to be erected around the rear garden of the proposed house would be set well back from the public road and in such position it would be seen in its close relationship with the proposed house. As so positioned it would not appear intrusive and incongruous within its wider landscape setting and would not be harmful to the character and appearance of the area.

The 1.8 metres high timber screen fencing to be erected along part of the south boundary of the site would not extend all the way to the west boundary of the site but would stop some 2.8 metres back from that boundary. Although such fencing would project forward of the front elevation of the proposed house it would be seen in the context of the greater height and massing of the proposed house and the neighbouring buildings of Post Office



and Post Office House and of the existing telephone box that it would be positioned adjacent to. In such context it would not appear intrusive or incongruous within its wider landscape setting and would not be harmful to the character and appearance of the area.

On these matters of design, layout and density of development the proposed development complies with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), 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 daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

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. By virtue of its height, positioning and distance away from the neighbouring properties, the proposed house would not, in accordance with such guidance, give rise to harmful loss of daylight or sunlight to them and therefore would not have a harmful affect on the residential amenity of those properties. The proposed house should also receive a sufficient amount of daylight (skylight) and the garden of it a sufficient amount of sunlight. On this matter of residential amenity the proposed development is consistent with Policies DP2 and DP7 of the adopted East Lothian Local Plan 2008.

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.

There are no residential properties to the north of the application site, only the driveway of the house of Browseat House. That driveway is already visible in public views and is not afforded the same degree of privacy as would an area of private residential amenity space. Thus the proposed house would not allow for harmful overlooking of any neighbouring residential property to the north.

The houses to the west on the opposite side of the B6137 public road would be some 25 metres away from the front (west) elevation wall of the proposed house and their gardens would be some 18 metres away from that elevation wall of the proposed house. Thus the proposed house would not allow for any harmful overlooking of any neighbouring residential property to the west.

The south elevation wall of the proposed house would be only some 3.2 metres away from the south boundary of the site with the garden of the buildings of Post Office and Post Office House. However, there would be no windows in the south elevation wall of the proposed house. Thus the proposed house would not allow for any harmful overlooking of any neighbouring residential property to the south.

However, further windows or other glazed openings could be formed in the south elevation wall of the proposed house at a later date with permitted development rights and thus without the need for planning permission. If formed they could cause harmful overlooking of the neighbouring property to the south. The 1.8 metres high timber screen

fence that is proposed to be erected along the south boundary of the site at the side of the proposed house would be sufficient to prevent harmful overlooking of the neighbouring garden ground from any ground floor windows or other glazed openings however, first floor windows would still allow for harmful overlooking of the neighbouring garden ground. Accordingly conditions should be imposed on a grant of planning permission to withdraw those permitted development rights for the formation of first floor windows or other glazed openings in the south gable of the proposed house, and for the formation of ground floor windows in the south gable of the proposed house unless there is a 1.8 metres high screen fence or other solid boundary enclosure in place along the length of south boundary of the site at least coterminous with the south elevation wall of the proposed house.

The east elevation wall of the proposed house would be a minimum of some 3.4 metres and a maximum of 5.2 metres away from the east boundary of the site with the land of the British Telecom exchange site. That elevation wall of the proposed house would be some 11 to 12.5 metres away from the garden of the residential property of Browseat House beyond the British Telecom exchange site. Due to the shape of the proposed site some of the windows of the east elevation wall of the proposed house would be less than 9 metres away from the driveway of the residential property of Browseat House, however that driveway is already visible in public views and is not afforded the same degree of privacy as would an area of private residential amenity space. The windows of the east elevation of the proposed house would not be within 18 metres of any directly facing windows of the west elevation wall of the house of Browseat House to the east.

In all of the above the proposed house would not allow for any harmful overlooking of any neighbouring residential property to the east.

The occupiers of the proposed house would also benefit from sufficient privacy and residential amenity.

On the foregoing considerations of overshadowing and overlooking the proposed house is consistent with Policies DP2 and DP7 of the adopted East Lothian Local Plan 2008.

Vehicular access would be taken from the B6137 public road. A parking and turning area would be provided within the site in the form of a driveway that would be positioned to the west and south sides of the house.

The Council's Transportation service advises that the proposed house would be provided with a safe means of vehicular access subject to: (i) the vehicular access being provided with a visibility splay of 2.0 metres by 90.0 metres in both directions so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent road surface; (ii) the first 2 metres of the driveway being hard formed to prevent loose materials entering the public road; and (iii) any gates installed at the access opening into the site. These matters can be made conditional on the grant of planning permission.

Transportation advise that the visibility splay is achievable and that the 600mm high boundary wall and hedging within its extent would be acceptable. Transportation is also satisfied that the proposed driveway to the west and south sides of the proposed house would provide an acceptable standard of on-site parking provision and would allow vehicles to turn so that they would be capable of entering and leaving the public road in a forward gear. Thus, the proposed house can be safely accessed and provided with an acceptable standard of in-curtilage parking and turning provision.

Transportation also advises that the 1.5 metres width of footpath space provided between the west boundary of the site and the back edge of the B6137 public road and

extending around the northwest corner of the site would provide a sufficient width of footpath.

The Council's Transportation service further advises that in order to ensure that the impact of construction traffic would not cause a hazard to road or pedestrian safety due to the proximity of the site to the public road a construction traffic method statement should be submitted for the prior approval of the Planning Authority. This can be controlled by a condition attached to a grant of planning permission. Subject to this planning control Transportation are satisfied that the proposed development would not result in any road or pedestrian safety hazard.

On these considerations the proposed development is consistent with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

On the matter of the land of the application site being used for parking by customers of the post office/shop, Transportation advises that this is an informal arrangement, which could end at any time should the land owner choose to enclose the area of land in question whether or not it was then subsequently developed. Transportation further comments that the lay-by on the opposite side of the road has been observed to have spare capacity to accommodate parking for customers visiting the post office/shop.

The Council's Access Officer advises that a new core footpath is proposed to be formed along the western side of the agricultural field that is to the north of the application site. The provision of the 1.5 metres wide footpath space between the west boundary of the site and the back edge of the B6137 public road and extending around the northwest corner of the site would provide a sufficient width of footpath and allow connection between the new core footpath and the village.

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

Scottish Water raises no objection to the proposed development.

#### 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. CH\_PL\_003/Rev G and thereafter the access, turning and parking areas shall be retained for such uses.

The vehicular access with the B6137 public road shall have a minimum visibility splay of at least 2.0

metres by 90.0 metres in both directions so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent road surface, and each of the two visibility splays shall be maintained thereafter.

No use shall be made of the new vehicular access driveway with the B6137 public road unless the first 2 metres of ground over the full width of the access and measured from the back edge of the adjacent B6137 public road is hard surfaced to prevent loose materials entering the public road, and thereafter shall be retained as such.

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

Reason:

In the interests of road safety.

- 3 A Construction Traffic Method Statement designed to minimise the impact of the movements of construction traffic to and from the application site shall be submitted to and approved by the Planning Authority prior to the commencement of development on the site and shall include hours of construction work and any recommended mitigation measures for the control of construction traffic, which shall, as may be applicable, be implemented prior to the commencement of development and during the period of development works being carried out on the application site.

Reason:

To minimise the impact of construction traffic in the interests of road and pedestrian safety in the locality.

- 4 A schedule and samples of the materials to be used as external finishes of the roof and walls of the house, including the base course, timber feature panels, quoins and window and doors bands, and the new 600mm high rendered boundary wall 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, gate posts and fencing hereby approved to be erected on the boundaries of the site 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 paved patio, footpaths and vehicular parking and turning areas 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.

- 5 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 first floor level within the south elevation of the house hereby approved, unless otherwise approved by the Planning Authority.

Reason:

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

- 6 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 floor level within the south elevation of the house hereby approved unless the part of the south boundary of the site that is coterminous with the south elevation of the house is enclosed by a solid means of enclosure of a minimum height of 1.8 metres, unless otherwise approved by the Planning Authority.

Reason:

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

- 7 The house hereby approved shall not be occupied until the 1.8 metres high timber screen fencing to be erected on part of the south boundary of the site and the 1.8 metres high timber screen fencing and gate to be erected around the boundaries of the rear garden of the house, all as shown on docketed drawing no. CH\_PL\_003/Rev G 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 south and the privacy and amenity of the occupiers of the proposed house.

*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 3 September 2013  
**BY:** Depute Chief Executive  
(Partnership and Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

**3**

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*Note - this application was called off the Scheme of Delegation List by Councillor Williamson for the following reason: The location of the proposed wind turbine is on low lying ground compared to most of the surrounding area which would tend to mitigate the visual effect on the landscape. There have been no local objections to the application. A site visit would enable the grounds for refusal to be seen in context.*

Application No. **13/00211/P**  
Proposal Erection of wind turbine and associated works  
Location **Queen Margaret University  
Queen Margaret University Drive  
Stoneybank  
Musselburgh  
East Lothian  
EH21 6UU**  
Applicant Queen Margaret University  
Per Locogen  
RECOMMENDATION Application Refused

#### PLANNING ASSESSMENT

Planning permission is sought for the erection of one wind turbine on land comprising part of the educational campus of Queen Margaret University. The land of the application site is adjacent to the university energy centre and services yard area at the southeastern part of the campus, southeast of the other land and buildings of the Queen Margaret University Campus.

In association with the proposed wind turbine, planning permission is also sought for the formation of a small hardstanding area and access track that would be positioned adjacent to the proposed wind turbine.

The proposed wind turbine would consist of a supporting column measuring 36.7 metres in height from the ground to the centre of the rotor hub. The triple blades of the rotor would each have a length of 10.45 metres. The wind turbine would therefore have a height of 47.15 metres from ground level to blade tip. The diameter of its rotating blades would be 20.9 metres.

The proposed position of the wind turbine is within the battlefield site of the Battle of Pinkie (1547) that is included in Historic Scotland's Inventory of Historic Battlefields.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 21 July 2011 the Council gave a formal screening opinion. The screening opinion concludes that the proposed development is unlikely to have significant effects on the environment to the extent that expert and detailed study through EIA would be necessary to properly assess any effect. Therefore, there is no requirement for the proposed wind turbine 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 South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policies 1B (The Spatial Strategy: Development Principles) and 10 (Sustainable Energy Technologies) of the approved South East Scotland Strategic Development Plan (SESplan) and Proposal ED14 (Queen Margaret University Campus, Musselburgh) and Policies DP13 (Biodiversity and Development Sites), NRG3 (Wind Turbines), NRG5 (Edinburgh Airport Safeguarding Zone), ENV7 (Scheduled Monuments and Archaeological Sites) 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:

1. The Scottish Government's policy on renewable energy given in Scottish Planning Policy: February 2010;
2. The Scottish Government web based renewables advice entitled "Onshore Wind Turbines", which has replaced Planning Advice Note 45: Renewable Energy Technologies;
3. The East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011);
4. The Council's Planning Guidance for Lowland Wind Turbines: June 2013;
5. The Scottish Historic Environment Policy: December 2011.

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. In this, there is potential for communities and small businesses in urban and rural areas to invest in ownership of renewable energy projects or to develop their own projects for local benefit. Planning authorities should support the development of a diverse range of renewable energy technologies whilst guiding development to appropriate locations. Factors relevant to the consideration of applications for planning permission will depend on the scale of the development and its relationship with the surrounding area, but are likely to include impact on the landscape, historic environment,



natural heritage and water environment, amenity and communities, and any cumulative impacts that are likely to arise. When granting planning permission planning authorities should include conditions for the decommissioning of renewable energy developments including, where applicable ancillary infrastructure and site restoration.

The advice entitled “Onshore Wind Turbines” forms one section of the web based renewables advice from the Scottish Government. It provides advice on, amongst other things, matters relating to landscape impact, wildlife and habitat, ecosystems and biodiversity, shadow flicker, noise, road traffic impacts, aviation, and cumulative effects. In relation to landscape impact, the advice is that wind turbines can impact upon the landscape by virtue of their number, size or layout, how they impact on the skyline, their design and colour, any land form change, access tracks and ancillary components anemometers, substations and power lines. The ability of the landscape to absorb development often depends largely on features of landscape character such as landform, ridges, hills, valleys, and vegetation. Selecting an appropriate route for access, considering landform change, surfacing and vegetation can also influence to what extent proposals are integrated into the landscape setting. In relation to landscape impact, a cautious approach is necessary in relation to particular landscapes which are rare or valued. In assessing cumulative landscape and visual impacts, the scale and pattern of the turbines plus the tracks, power lines and ancillary development will be relevant considerations. It will also be necessary to consider the significance of the landscape and views, proximity and inter-visibility and the sensitivity of visual receptors. Planning authorities are more frequently having to consider turbines within lower-lying more populated areas, where design elements and cumulative impacts need to be managed.

Policy 10 of the approved South East Scotland Strategic Development Plan (SESplan) seeks to promote sustainable energy sources.

It is stated in paragraph 9.6 of the adopted East Lothian Local Plan 2008 that the Council is supportive of Government policy to secure greater energy generation from renewable sources. The benefits will be weighed against the impact on the local environment and features of interest. With regard to wind turbines it is stated in paragraph 9.7 that because of the need for turbines to catch the wind it is not possible to hide them. The visual and landscape impact, both of the turbines themselves and associated infrastructure, is usually the main concern. In paragraph 9.8 it is stated that the Council wishes to protect valued landscape features, including North Berwick Law.

Policy NRG3 of the adopted East Lothian Local Plan 2008 states that subject to consistency with other plan policies, proposals for individual turbines or wind farms and associated access tracks and transmission lines will be supported where (i) they would not change the existing landscape character in an unacceptable way; (ii) they would not have an unacceptable visual impact on landscape or townscape including the impact on distinctive public views, landmark buildings or natural features, or routes; (iii) they would not have an unacceptable impact from noise at any noise sensitive property including the gardens of such properties however large; (iv) there would be no demonstrable nuisance from a shadow flicker effect; (v) they would have no unacceptable adverse impacts on hydrogeology or hydrology; (vi) alternative, better, sites are not available; and (vii) there are no unacceptable cumulative impacts. Policy NRG3 also requires that in assessing all proposals the Council will have regard to the findings and recommendations of the Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005).

The Council’s East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) is also relevant to the determination of this application. This Supplementary Landscape Capacity Study determines the capacity of the East Lothian

lowland landscapes and the Lammermuir fringe to accommodate various scales of wind turbine development smaller than those considered in the Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005). In this regard four principal development typologies are considered in the study, namely, (i) Typology A: wind turbines between 65m and 120m high, (ii) Typology B: Single wind turbines between >42m and <65m high, (iii) typology C: wind turbines between 20m and up to and including 42m high, and (iv) typology D: wind turbines between 12m and <20m high, with all wind turbine heights being from ground level to blade tip.

The Council's Planning Guidance for Lowland Wind Turbines: June 2013 is relevant to the determination of this application. In setting out the policy framework, key considerations and capacity assessments for wind turbine development the purpose of this supplementary planning guidance is (i) to provide potential applicants for planning permission for smaller and medium sized turbines with guidance on the range of issue which they should consider when preparing wind turbine proposals, (ii) to indicate the matters which will be considered by the Council when assessing these applications, (iii) to set out the recommendations of the Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011). It is focused primarily on turbines with a height to blade tip ranging from between 20 to 120 metres but is also applicable to single and small groups of turbines in excess of 120 metres to blade tip where the same design and policy issues would be relevant.

The Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005) is not material to the determination of this application as its findings are not based on an assessment of the affect on the landscape of East Lothian of a single wind turbine lower than 120 metres high.

A total of 7 written objections have been received to this planning application. The main grounds of the objections to the application are:

- \* the proposed wind turbine is contrary to the findings of the Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011);
- \* the proposed wind turbine would harmfully impact on key features and views.

Due to their positioning within the local landform and that they would be ground surface features, the proposed access track and hardsurfaced areas would not be harmful to the landscape character and appearance of the University Campus or of the wider area.

The National Air Traffic Services (NATS) and the Ministry of Defence (MOD) have been consulted on the application and all raise no objection to the proposed wind turbine on grounds of aircraft safety. The Civil Aviation Authority (CAA) have no comment to make on the application.

As the application site lies within the Edinburgh Airport Safeguarding Zone, Edinburgh Airport Limited have been consulted on the application. Edinburgh Airport Limited advises that the proposed wind turbine would not conflict with the safeguarding criteria and thus there is no objection to the application. Thus the proposed wind turbine is not contrary to Policy NRG5 of the adopted East Lothian Local Plan 2008.

Proposal ED14 of the adopted East Lothian Local Plan 2008 promotes some 21 hectares of land at Mucklets Road, Musselburgh, between the A1 and the east coast main line for educational purposes to accommodate Queen Margaret University Campus and a new junction off the A1 trunk road. The University Campus has been erected and is operational.

The application site is part of the Queen Margaret University Campus site. The proposed wind turbine by its siting and operation in relation to the use of the Queen Margaret University Campus gives it an operational requirement to be sited in its proposed location. The proposed wind turbine is capable of providing the university with a renewable energy source. On these considerations the proposed wind turbine is consistent with Proposal ED14 of the adopted East Lothian Local Plan 2008.

Policy NRG3 of the adopted East Lothian Local Plan 2008 stipulates that a proposed wind turbine(s) should not have an unacceptable impact from noise at any noise sensitive property and Part 5 of Policy DC1 requires there to be no significant adverse impact on nearby uses.

Paragraph 5.20 of Planning Guidance for Lowland Wind Turbines: June 2013 states that the proximity of noise sensitive receptors (e.g. residential properties) will be a significant factor in the requirement for an assessment of the affect of noise from the turbine on such noise sensitive receptors. Paragraph 5.22 states that for single turbines in low noise environments the day time level measured as LA(), 10min should be 35 DB at nearest noise sensitive dwellings, up to wind speeds of 10m/s at 10 metres in height.

In this regard the Council's Senior Environmental & Consumer Services Manager advises that he has assessed the noise data submitted with the application and is satisfied that the external free-field noise levels associated with the operation of the proposed wind turbine would not exceed 35dBLA90 10min at any wind speed up to 10m/s at any nearby residential property. In which case the proposed wind turbine would not have a harmful noise impact on any residential property within the locality.

Policy NRG3 of the adopted East Lothian Local Plan 2008 stipulates that a proposed wind turbine(s) should not demonstrably give rise to nuisance from a shadow flicker effect and Part 5 of Policy DC1 requires there to be no significant adverse impact on nearby uses.

The Scottish Government web based renewables advice entitled "Onshore Wind Turbines" advises that as a general rule the shadow flicker effect of an operating turbine should not be a problem where the distance between the turbine and a dwellinghouse exceeds 10 times the diameter of the rotor blades of the turbine.

In the case of the proposed wind turbine 10 times the diameter of its rotor blades would be 209 metres. The nearest dwellings, being those of Mucklets Crescent to the northeast, are some 255 metres away from where the proposed wind turbine would be sited. Thus, the proposed wind turbine passes the Scottish Government's general rule of shadow flicker effect.

Due to its height and distance from the nearest residential properties the proposed wind turbine would not be physically overbearing on any of them or in the outlook from them. On this count the proposed wind turbine would not harm the amenity of those residential properties.

Policy NRG3 of the adopted East Lothian Local Plan 2008 stipulates that a proposed wind turbine(s) should not have an unacceptable adverse impact on hydrogeology or hydrology.

There is no evidence on which to say that the proposed wind turbine would have an unacceptable adverse impact on the hydrogeology or hydrology of the area.

On these tests of noise and shadow flicker effect and considerations of dominance, outlook and impact on hydrology the proposed wind turbine is consistent with Policy NRG3 of the adopted East Lothian Local Plan 2008, The Scottish Government web based renewables advice entitled “Onshore Wind Turbines” and Planning Guidance for Lowland Wind Turbines: June 2013.

On the matter of safety, paragraph 5.15 of Planning Guidance for Lowland Wind Turbines: June 2013 states that although wind turbines erected in accordance with best engineering practice should be stable structures, it is desirable to achieve a set back from roads, railways and public footpaths. The Scottish Government web based renewables advice entitled “Onshore Wind Turbines” gives advice on the siting of wind turbines in proximity to roads and railways and states that it may be advisable to achieve a set back from roads and railways of at least the height of the turbine proposed.

The proposed wind turbine would achieve such a set back distance in its relationship with the nearest public road; that being the A1 trunk road to the southwest. The Council’s Transportation service has been consulted on the application and raises no objection to the proposed wind turbine, being satisfied that due to its distance away from the public road it would have no significant adverse consequences for road safety.

On this consideration of safety the proposed wind turbine is consistent with Policy T2 of the adopted East Lothian Local Plan 2008, The Scottish Government web based renewables advice entitled “Onshore Wind Turbines” and Planning Guidance for Lowland Wind Turbines: June 2013.

Policy DP13 of the adopted East Lothian Local Plan 2008 generally presumes against new development that would have an unacceptable impact on the biodiversity of an area. One of the key considerations set out in Planning Guidance for Lowland Wind Turbines: June 2013 is that sites or species designated or protected for their biodiversity or nature conservation interest will be protected in accordance with development plan policy. Proposals for wind turbines must have regard to both their site specific and wider impacts.

The Council's Biodiversity Officer is satisfied that the proposed wind turbine would not have any adverse biodiversity impacts.

Accordingly, the proposed wind turbine is not contrary to Policy DP13 of the adopted East Lothian Local Plan 2008 or Planning Guidance for Lowland Wind Turbines: June 2013.

It is stated in Scottish Planning Policy 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.

As stipulated in Policy ENV7 of the adopted East Lothian Local Plan 2008, new development that would harm a site of archaeological interest or its setting will not be permitted. One of the key considerations set out in Planning Guidance for Lowland Wind

Turbines: June 2013 is that wind turbine development that would harm an archaeological site or its setting, will not normally be permitted.

It is stated in the Scottish Historic Environment Policy: December 2011 that planning authorities should have careful regard for the landscape characteristics and specific qualities of battlefields. Battlefields are valued for a variety of reasons: marking the sites of significant events containing physical or archaeological remains associated with battles, or the remains of fallen combatants. Battles hold a significant place in our national consciousness and have a strong resonance in Scottish culture.

The Council's Archaeology Officer advises that the proposed development would be situated in an area that has been previously evaluated as part of the Queen Margaret University development and thus there is no requirement for a programme of archaeological works to be carried out prior to the commencement of development. The Archaeology Officer further advises that the site is located on the edge of the area of the Battle of Pinkie and thus he raises no objection to the siting of the proposed wind turbine, advising that it would not harm the landscape characteristics of the battlefield site.

Historic Scotland have been consulted on the application and are content that the proposed wind turbine would not have an adverse impact on the landscape characteristics of the battlefield site.

On this consideration the proposed wind turbine is not contrary to Policy ENV7 of the adopted East Lothian Local Plan 2008, the Scottish Historic Environment Policy: December 2011, Scottish Planning Policy: February 2010 or Planning Guidance for Lowland Wind Turbines: June 2013.

As the application site is within a Coal Mining Development Referral Area The Coal Authority has been consulted on it. On the advice of The Coal Authority the applicant has submitted a Mineral Stability Report. The Coal Authority agree with the conclusions of the submitted Mineral Stability Report that coal mining legacy issues do not pose a risk to the proposed development, and thus they do not object to the application.

Notwithstanding these foregoing conclusions it now has to be established whether or not the proposed wind turbine would be acceptable in terms of its landscape and visual impact.

On the matter of landscape impact, an important material consideration in the determination of this planning application is the Council approved East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) which determines the capacity of the East Lothian lowland landscapes to accommodate various scales of wind turbine development.

The land of the application site is within the 'Mayfield/Tranent Ridge' landscape character area of the Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011). The Study classifies that landscape character area as being an elongated northeast/southwest orientated low, undulating ridge forming a backdrop to the well-settled Esk valley. The Study further classifies this landscape character area as being of medium-high sensitivity to Typology of wind turbine A and B, medium sensitivity for Typology C and low sensitivity for Typology D.

The Study states that within the 'Mayfield/Tranent Ridge' landscape character area: (i) there are no opportunities to locate wind turbines of Typology A (between 65 metres and 120 metres high) or of Typology B (single wind turbines between more than 42 metres and less than 65 metres high); (ii) there are very limited opportunities to accommodate

wind turbines of Typology C, being wind turbines between 20 metres high and up to and including 42 metres high (subject to impact on key views); (iii) there are opportunities to locate wind turbines of Typology D, being wind turbines between 12 metres and less than 20 metres high, if visually associated with farms and buildings.

The proposed wind turbine, at a height of 47.15 metres from ground level to blade tip, is a Typology B wind turbine that the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) advises cannot be accommodated within the 'Mayfield/Tranent Ridge' landscape character area.

On this count the proposed wind turbine is contrary to the Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011).

Notwithstanding, it is necessary to determine, though a specific landscape and visual impact appraisal of its likely impact whether or not the proposed wind turbine would be acceptable to its place. In this due regard has to be paid to the terms of Local Plan Policy NRG3, Scottish Planning Policy: February 2010 and Planning Guidance for Lowland Wind Turbines: June 2013.

As stipulated in Policy NRG3 of the adopted East Lothian Local Plan 2008 a proposed wind turbine(s) should not change the existing landscape character in an unacceptable way and should not have an unacceptable visual impact on landscape or townscape including the impact on distinctive public views, landmark buildings or natural features.

On the key considerations of landscape impact and impact on public views to and from landmark features Planning Guidance for Lowland Wind Turbines: June 2013 states:

(i) wind turbine development will only be supported where the overall integrity and setting of key public views to and from landmark features, both natural and man-made, will not be compromised. Developments which would harm the character, appearance and setting of significant natural landscape features, landmark buildings and structures will be resisted;

(ii) wind turbines must be sited and designed so that they relate to their setting; that any adverse effects on visual amenity and landscape are minimised and that areas which are valued for their landscapes and scenery are protected;

(iii) wind turbines must be acceptable in terms of scale and character for their proposed location and must be well integrated into the landscape, reflect its character and quality of place and be compatible with its surroundings;

(iv) wind turbines must not appear incongruous or dominate the local landscape when viewed from a range of public places. They must be capable of being accommodated within an open landscape without detriment to landscape character. They must not result in a change of landscape character from a predominantly agricultural landscape to one that is a landscape dominated by wind turbines: cumulative impact will be a particular issue here;

In relation to cumulative impact paragraph 4.34 of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 states that individual wind turbine proposals must not be looked at in isolation. Cumulative visual impact, viz. the impact of the proposed turbine/s when viewed in association with other turbines already erected or in the planning process needs to be taken into account. A balance must be retained, so that wind turbines are integrated into their landscape setting and do not merge with other turbines to change the character of

the landscape into a predominantly wind farm landscape where other significant landscape characteristics of an area become visually subservient to wind turbines. On this matter Policy NRG3 of the local plan stipulates there should be no cumulative impacts from a proposed wind turbine(s).

The specific landscape appraisal of the impact of the proposed wind turbine undertaken by Policy & Projects finds that:

\* In views from the entrance to the Queen Margaret University campus at Stoneybank in Musselburgh the proposed wind turbine would become the dominant focal point, appearing very prominent and obtrusive on the skyline, harmful to the landscape character of the 'Mayfield/Tranent Ridge' landscape character area;

\* In views from the entrance to the Queen Margaret University campus at the A1 slip road the proposed wind turbine would be a prominent vertical feature with its nacelle and blades visible above the campus buildings where it would appear as a discordant and incongruous form of development harmful to the landscape character of the 'Mayfield/Tranent Ridge' landscape character area;

\* In northeastward views from the A1 westbound the proposed wind turbine would be a prominent obtrusive vertical skyline feature, out of scale with the university buildings, being some 27.15 metres higher than the tallest building on the site. It would also compete visually with Arthur's Seat therefore diminishing this iconic landmark's importance as the main focus of this view. The proposed wind turbine would also be viewed together with the existing electricity pylons resulting in harmful visual clutter of large scale structures. This would harmfully detract from the 'Mayfield/Tranent Ridge' landscape character area;

\* In northeastward views from the A1 eastbound the proposed wind turbine would be a prominent obtrusive vertical skyline feature harmful to the landscape character of the 'Mayfield/Tranent Ridge' landscape character area;

\* In views from Inveresk the proposed wind turbine would be very prominent and obtrusive on the skyline and together with the existing electricity pylons would be harmful visual clutter of large scale structures on the landscape. This would harmfully detract from the landscape character of the 'Mayfield/Tranent Ridge' landscape character area;

\* In longer distance views from Crookston Farm, in the countryside to the southwest of Wallyford, the proposed wind turbine would break the skyline and appear as a very prominent and obtrusive vertical structure. It would be seen in association with the existing electricity pylons resulting in harmful visual clutter of large scale structures on the landscape. This would harmfully detract from the landscape character of the 'Mayfield/Tranent Ridge' landscape character area.

The overall findings of the specific landscape appraisal is that the proposed wind turbine due to its positioning, form, height and scale would in many views of it appear as a highly exposed and obtrusive skyline feature and in its relationship with the existing electricity pylons would harmfully amount to visual clutter on the landscape. Such effects would harmfully detract from the landscape character of the 'Mayfield/Tranent Ridge' landscape character area.

These findings demonstrate that the proposed wind turbine cannot successfully be accommodated in its proposed location within the 'Mayfield/Tranent Ridge' landscape character area.

On the considerations of landscape appraisal it can be concluded from all of the above that the proposed wind turbine is contrary to Policy NRG3 and of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010, the Scottish Government web based renewables advice entitled "Onshore Wind Turbines" and the key considerations of landscape impact of Planning Guidance for Lowland Wind Turbines: June 2013.

Finally, it is necessary to consider whether there are material considerations in this case that outweigh the above conclusions that the proposed wind turbine does not comply with relevant development plan policy, the Council's Planning Guidance for Lowland Wind Turbines: June 2013 and the Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011).

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. However, Scottish Planning Policy advises that whilst planning authorities should support the development of a diverse range of renewable energy technologies, they should guide development to appropriate locations and that factors relevant to the consideration of applications for planning permission will depend on the scale of the development and its relationship with the surrounding area and include impact on the landscape, historic environment, natural heritage and water environment, amenity and communities, and any cumulative impacts that are likely to arise.

Development plan policy for East Lothian is supportive of Government policy to secure greater energy generation from renewable sources, but does require that the benefits of that have to be weighed against the impact of any such developments on the local environment and features of interest.

In the case of the wind turbine proposed in this application any benefit of it as a renewable source of electricity generation would not in itself outweigh the harmful impact it would have on the landscape character and appearance of the 'Mayfield/Tranent Ridge' landscape character area.

#### REASONS FOR REFUSAL:

- 1 The proposed wind turbine is contrary to the Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) which states that a Typology B wind turbine cannot be accommodated within the 'Mayfield/Tranent Ridge' landscape character area.
- 2 The proposed wind turbine due to its positioning, form, height and scale would in many views of it appear as a highly exposed and obtrusive skyline feature and in its relationship with the existing electricity pylons would harmfully amount to visual clutter on the landscape. Such effects would harmfully detract from the landscape character of the 'Mayfield/Tranent Ridge' landscape character area. Accordingly, the proposed wind turbine is contrary to Policy NRG3 and of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010, the Scottish Government web based renewables advice entitled "Onshore Wind Turbines" and the key considerations of landscape impact of Planning Guidance for Lowland Wind Turbines: June 2013.



*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 3 September 2013  
**BY:** Depute Chief Executive  
(Partnership and 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 Akhtar for the following reason: it warrants consultation with the local community.*

Application No. **13/00001/P**

Proposal                      Erection of a class 1 retail store, formation of vehicular access, car parking and associated works

Location                      **Tranmare Hotel  
Tranent  
East Lothian  
EH33 1DZ**

Applicant                      Punch Taverns Limited

Per                                D2 Planning Limited

RECOMMENDATION              Consent Granted

#### PLANNING ASSESSMENT

The site is located towards the eastern edge of Tranent. It is comprised of the land of the former Tranmare Hotel and part of the public road of Haddington Road. The hotel building was recently demolished. The demolition was carried out as permitted development under the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended. Consequently the land of the former hotel is now a cleared site, vacant to use.

The main part of the site is the subject of Policy BUS2 of the adopted East Lothian Local Plan 2008.

The site is bounded to the northeast by a telephone exchange and to the east by the Original Factory shop. The Original Factory shop sells a wide range of comparison goods. To the south it is bounded by residential properties and to the west it is bounded by a single track lane. Beyond the single track lane is a grass verge and beyond that residential properties that are also located on the eastern side of Ormiston Crescent East. As well as providing vehicular access, the single track lane forms part of a right of

way that runs from Haddington Road and that continues northwest to the rear of the residential properties on the east side of Northfield East and Coalgate Avenue.

Planning permission is sought for the erection on the application site of a Class 1 retail store, with car parking, servicing, landscaping and other associated works.

The retail store building would have a broadly rectangular footprint and would be located on the eastern part of the site, some 11 metres to the west of the western elevation of the Original Factory shop. Its front elevation would face southwards and would be principally glazed. The front elevation would have buff stone piers and an overhanging entrance canopy. The other walls of the building would be primarily finished in grey coloured metal cladding, although the southern end of the western elevation would be finished with buff stone. The roof of the building would have a shallow curve and would be finished in profiled metal cladding. The proposed retail store building would be some 54 metres from the closest house at Haddington Road and some 59 metres from the closest house at Ormiston Crescent East. The retail store would have a gross floor area of 1,625 square metres and a total net sales area of 1,250 square metres. All of the 1,250 square metres of net sales area would be used for the sale of convenience goods. The service yard for the retail store is to be located adjacent to the northern elevation of the building. It would be enclosed by a 3.5 metres high wall. Vehicular access to the site for members of the public and for service delivery vehicles is to be taken from Haddington Road via a new road junction to be positioned some 15 metres to the northwest of the existing junction of Haddington Road and Muirpark Terrace. A total of 134 car parking spaces would be provided within the application site, to the south and west of the retail store building. Landscaping strips are to be created along the southern, western and southern end of the eastern boundaries of the site.

There is no named operator for the Class 1 retail development for which planning permission is sought.

The applicant has, amongst other things, submitted a Planning Statement, a Retail Statement and a Transport Assessment with the application.

The Planning Statement reviews relevant development plan policy and provides a planning assessment of the proposed development.

The Retail Statement provides a description of the proposed development, an outline of the relevant development plan policies, and a detailed consideration of retail planning policy issues, including expenditure estimates, potential trading characteristics of the proposed store and estimated trade diversions.

The Retail Statement concludes that the proposals will:

- \* Support the regeneration of a brownfield site;
- \* Not have a significant impact on the vitality or viability of any designated retail centre either individually or cumulatively;
- \* Address quantitative and qualitative retail deficiencies;
- \* Address the lack of main-food provision in the town;
- \* Assist in attracting new trade to Tranent and increase the likelihood of associated linked trips with the town centre;
- \* Be accessible by a number of modes of transport;
- \* Reduce the length of trips made and thus reduce CO2 emissions; and
- \* Create up to 100 jobs in Tranent as well as a number of temporary construction jobs.

A Transport Assessment has also been submitted in support of this planning application. The Transport Assessment evaluates the traffic impact resulting from the additional shopping trips generated by the new development, and examines the accessibility of the development by sustainable modes of transport.

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 South East Scotland Strategic Development Plan (SESPlan) and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application are Policies 1B (The Spatial Strategy: Development Principles) and 3 (Town Centres and Retail) of the approved South East Scotland Strategic Development Plan (SESPlan) and Policies BUS2 (Business Class Locations), R1 (New Shops), T2 (General Transport Impact), DP1 (Landscape and Streetscape Character), DP2 (Design), DP17 (Art Works- Percent for Art), DP22 (Private Parking) and DP23 (Waste Minimisation, Separation, Collection and Recycling) of the adopted East Lothian Local Plan 2008.

Material to the determination of the application is Scottish Planning Policy on economic development and on town centres and retailing. So too are the written representations received from the public.

On matters of economic development it is stated in Paragraph 46 of Scottish Planning Policy: February 2010 that planning authorities should ensure that there is a range and choice of marketable development sites and locations for businesses allocated in development plans. Marketable sites should meet business requirements, be serviced or serviceable within 5 years, be accessible by walking, cycling and public transport, and have a secure planning status. Where identified sites are no longer considered appropriate or marketable, they should be reallocated through the development plan.

On matters of town centres and retailing, Paragraph 62 of Scottish Planning Policy requires that the sequential approach be used when selecting locations for all retail and commercial leisure uses unless the development plan identifies an exception. The sequential approach requires that locations are considered in following order:

- (i) Town centre;
- (ii) Edge of town centre;
- (iii) Other commercial centres identified in the development plan; and
- (iv) Out of centre locations that are or can be made easily accessible by a choice of transport modes.

It is stated in paragraph 63 that out of centre locations should only be considered when all town centre, edge of town centre and other commercial centre options have been assessed and discounted as unsuitable or unviable; where the scale of the development proposed is appropriate; and where there would be no significant adverse effect on the vitality and viability of existing centres. Paragraph 64 adds that when a proposed retail or commercial leisure development is contrary to the development plan, planning authorities should ensure that: the sequential approach has been used; the proposal will help to meet qualitative and quantitative deficiencies identified in the development plan; and the proposal does not conflict with other significant objectives of the development plan or other relevant strategy.

Seven written representations have been received, five of which object to the proposed retail development. One of these objections has been submitted on behalf of the Co-operative Group. The other two written representations do not state whether they object to or support the proposed retail development. The main grounds of objection are that:

- \* Speed and volume of traffic on Muirpark Terrace is already a major safety issue, and additional traffic generated by the proposed retail store would exacerbate the problem;
- \* Scale of the proposed retail store is likely to have a very significant adverse impact on the vitality and viability of the existing shopping facilities in Tranent town centre and the submitted Retail Statement has sought to hide the true impact of the proposed retail store;
- \* Proposed retail store would act as a disincentive for investment in Tranent town centre and lead to a sharp decline in the town centre's health;
- \* The proposed retail store development of this allocated business land is a clear departure from Policy BUS2 of the adopted East Lothian Local Plan 2008 and there are no material considerations that would justify approval of this planning application;
- \* Part of the wall enclosing the storage yard would obscure a 'blind' 90 degrees bend on the adjacent access road; and
- \* The applicant has previously claimed that they do not own the northern part of the land of the application site.

The applicant has confirmed in writing that they own the northern part of the land of the application site.

Tranent Community Council raise no objection to the proposed retail store. Their only slight concern was about the added traffic that would come through Muirpark Terrace in an already busy street. The Community Council advise that some added traffic calming measures would suffice.

The land of the main part of the application site is subject to Policy BUS2 of the adopted East Lothian Local Plan 2008. Policy BUS2 allocates that land for business uses defined by Class 4 and, subject to there being no harm to the amenity of the existing business area, Class 6 (storage and distribution) 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.

Part 6 of Policy R1 of the adopted East Lothian Local Plan 2008 does not permit new shops within business or industrial areas unless directly related and ancillary to the operations carried out there.

The principle of a Class 1 retail use of the application site is contrary to Policies BUS1 and R1 (Part 6) of the adopted East Lothian Local Plan 2008.

Nonetheless, consideration must be given to whether or not there are any material considerations which might justify a departure from the development plan.

With a site area of some 0.9 hectares, the development of a retail store would necessitate the loss of what is a relatively small amount of land allocated by Policy BUS2 of the adopted East Lothian Local Plan 2008 for Class 4 business use.

The land of the main part of the application site forms part of a larger area of land that is subject to Policy BUS2 of the adopted East Lothian Local Plan 2008. As well as the main part of the application site, that larger area of land consists of the telephone exchange located immediately to the north of the application site, the adjacent retail store that is currently operated as the Original Factory shop, a house, a car sales business, and two vacant units. Thus none of the land that is subject to Policy BUS2 is currently used for business or storage and distribution use. Moreover, given that the telephone exchange, the adjacent retail store, the house and the car sales business are all being operated for non-conforming uses, there is no reasonable prospect of all the larger area of land being used in the future for business use.

In addition to the land that is subject to Policy BUS2, some 4.4 hectares of land is allocated at Kingslaw, Tranent, to the northeast of the site, for business and industrial uses within Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The proposed retail store would not prejudice any future employment generating use of that allocated land.

The applicant has submitted a marketing letter in support of their planning application. The letter confirms that the former Tranmare Hotel was marketed between August 2011 and December 2012 for continued licensed use and also for uses within Classes 4 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The letter confirms that there was no interest for the former Tranmare Hotel for continued licensed use or for uses within Classes 4 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

In its employment generating use of the 0.9 hectares of land of the application site (100 full and part time jobs) and in the context of the availability of 4.4 hectares of allocated business and industrial land at Kingslaw, Tranent, the proposed retail store would not prejudice future employment generating uses of that greater amount of land. It would not result in a significant depletion of the Council's supply of allocated sites for business use to the detriment of the economy of East Lothian or Tranent or the greater Lothian economy. It would not conflict with the objectives of national, strategic or local plan policies on the supply of employment land.

The Council's Economic Development Manager raises no objection to the loss of this relatively small area of allocated business land, advising that other business land is available in the vicinity of the application site. She also advises that the proposed retail store would create a number of new jobs and would result in the redevelopment of an unattractive site.

In the context of limited uptake of economic land in Tranent, the Policy and Projects Manager advises that the loss of some 0.9 hectares of business land would not prejudice the economic land supply in Tranent or the wider East Lothian Council area. He points out that the application site is not specifically identified in the Employment Land Audit as forming part of the effective employment land supply. Given the individual circumstances of the past hotel use of the application site, he further advises that use of the application site for the proposed retail store would not prejudice other employment land allocations in East Lothian.

In this regard and as an employment generating use in itself the proposed retail store is a form of development of the application site that can be justified as an acceptable departure from Policies BUS2 and R1 of the adopted East Lothian Local Plan 2008.

In that a Retail Statement has been submitted with this application for planning permission for a Class 1 retail store of over 1000 square metres of gross floorspace the application complies with Part 8 of Policy R1 of the adopted East Lothian Local Plan 2008.

Policy 3 of the approved South East Scotland Strategic Development Plan (SESPlan) and Policy R1 of the adopted East Lothian Local Plan 2008 require application of the sequential approach to the siting of new retail development. This is consistent with Scottish Planning Policy on retail development. The sequential approach requires that locations are considered in the order of: (i) town centre; (ii) edge of town centre; (iii) other commercial centres identified in the development plan; and (iv) out of centre locations that are or can be made easily accessible by a choice of transport modes. Under the test of the sequential approach the requirement is for a planning authority to ensure that retail development would not harm the vitality and viability of existing town centres. Another consideration is that the retail development should address a local qualitative or quantitative deficiency and be restricted to a scale that meets this deficiency.

The extent of Tranent Town Centre is clearly defined by the adopted East Lothian Local Plan 2008.

The site of the proposed retail store is not within the defined boundaries of Tranent Town Centre. Rather it is located at its nearest point some 280 metres to the east of the defined boundary of the Town Centre. Whilst this cannot be considered to be an edge of centre site, it is within easy walking distance of the Town Centre and is within the urban area of Tranent.

The applicant's Retail Statement includes an assessment of sites within Tranent, from which it is contended that there are no suitable, viable or available sites within the defined Town Centre for development of a new supermarket.

In the Statement the applicant acknowledges that there is a playing field off Blawerie Road and an area of open space off the High Street that would both be capable of accommodating the proposed retail store development. Both of those sites are outwith, but immediately adjacent to, Tranent Town Centre. Both of those sites can therefore be defined as edge of town centre sites.

Both of these areas of open space are covered by Policy C3 of the adopted East Lothian Local Plan 2008, which contains a strong presumption against their loss, unless the function of them is not harmed or appropriate alternative provision can be made locally.

The Policy and Projects Manager accepts the findings of the applicant's Statement that the only sites large enough to accommodate a new retail store of the size proposed in town centre or edge of town centre locations are open space or recreational land protected for those uses by Policy C3 of the adopted East Lothian Local Plan 2008. Thus he advises that there are no available sites in or on the edge of Tranent Town Centre that could accommodate the proposed retail store. He accepts the applicant's sequential test assessment.

A further consideration of Scottish Planning Policy is that retail development proposals would help meet quantitative and qualitative deficiencies identified in the development plan, and be of a scale appropriate to any such deficiencies. Policy R1 of the adopted



East Lothian Plan 2008 also requires that retail developments not in a town centre, edge of centre, or in a location sufficiently close to form an effective extension to the town centre, should be restricted to a scale that meets any identified qualitative or quantitative deficiencies.

The applicant's Retail Statement contends that Tranent lacks choice in terms of main food shopping provision and that the proposed retail store would help to alleviate part of this deficiency. The Statement provides a quantitative assessment of retail capacity in an identified primary catchment area from which the proposed new retail store would draw expenditure, including Tranent, Pencaitland and Ormiston. The Statement assesses two possible scenarios; firstly, and as is currently the case, the occupier of the neighbouring retail store to the east is a comparison goods retailer, and secondly, that the neighbouring retail store to the east is occupied by a convenience goods retailer. The Statement concludes that a new retail store located on the application site is required to stem retail leakage from the Tranent area and to address the lack of main food shopping within the town and that in both scenarios, a retail store could be accommodated on the site without having an unacceptable impact on the vitality and viability of the Town Centre.

The conclusions of the applicant's Retail Statement are at odds with the objection submitted on behalf of the Co-operative Group. That objection includes within it an assessment of the applicant's Retail Statement. It concludes that the applicant's Retail Statement seeks to hide the true impact of the proposed retail store, which it contends would be likely to have a very significant adverse impact on the vitality and viability of the existing shopping facilities in Tranent Town Centre.

In light of these conflicting conclusions, the Council commissioned Roderick MacLean Associates Ltd to review the applicant's Retail Statement and to provide an independent assessment of the impact of the proposed new store on Tranent Town Centre, including the existing Co-op supermarket. Their assessment took into account the objection submitted on behalf of the Co-operative Group.

Roderick MacLean Associates Ltd advise that current convenience shopping in Tranent is limited. It is represented by the Co-op in the Town Centre, together with some small shops, including Farmfoods, Greggs and a Spar. In the suburbs, there are four neighbourhood convenience shops, including a small Co-op store. Moreover, they accept the applicant's position that Tranent mainly serves a top up shopping function, with some 83% of top-up expenditure retained within the Primary Catchment Area. However, only 19% of main food shopping is retained within the Primary Catchment Area. Roderick MacLean Associates Ltd conclude that the provision for main food shopping is poor in Tranent.

It is also accepted by Roderick MacLean Associates Ltd that there are high levels of retail leakage from the primary catchment area going to higher order centres such as Tesco in Musselburgh, ASDA at the Jewel in Edinburgh and to a lesser extent, Tesco in Haddington.

In detail, Roderick MacLean Associates Ltd estimates that convenience expenditure of some £17.4 million currently outflows from the primary catchment area each year. They further estimate that some 50% of trade of the new store would be diverted from shops outwith the primary catchment area. Whilst the proposed retail store would reduce leakage from the primary catchment area, Roderick MacLean Associates Ltd advise that the amount of clawback would be quite low, as the proposed retail store is too small to compete more strongly with the larger supermarkets located outwith the primary catchment area. Nonetheless, Roderick MacLean Associates Ltd accept that the

proposed store would help to meet a qualitative deficiency by improving main food shopping provision within Tranent.

It is a further requirement of Scottish Planning Policy and Policy R1 of the adopted East Lothian Local Plan 2008 that retail development proposals should not have an unacceptable impact upon the vitality and viability of a town centre. The Town Centre of Tranent includes the Co-op supermarket, which has a key role as the main foodstore.

Roderick MacLean Associates Ltd estimates that there would be a 17% impact on convenience floorspace within Tranent Town Centre, which is close to the 20% level that they consider as the threshold where threats would emerge. Impact on the Co-op is estimated at 18%. Whilst at this level there would be pressure put on the Co-op, Roderick MacLean Associates Ltd advise that its continued viability would probably not be threatened.

The review undertaken by Roderick MacLean Associates Ltd does advise that there is a risk that these impacts could be higher if alternative scenarios are applied, such as the market share based estimate of the Co-op turnover being lower than that applied in their review. In that circumstance, the continued viability of the Co-op would be called into question. However, having carefully considered these alternative scenarios, Roderick MacLean Associates Ltd conclude that the predicted trade diversion and consequent retail impacts would not threaten the vitality and viability of Tranent Town Centre or any other town or village centre.

The Council's Policy and Projects Manager accepts this conclusion. He does not object to the proposed retail store on grounds of impact on vitality and viability. He is satisfied that the proposed retail store does not conflict with other significant objectives of the development plan or other relevant strategy.

The Council's Economic Development Manager advises that there may be some impact on Tranent Town Centre as customers are diverted from the Co-op to the proposed new retail store. However she raises no objection to the proposed development, advising that the benefits of the additional jobs to be created and the redevelopment of an eyesore site outweigh the potential impact of the retail store on the Town Centre.

It would be prudent to restrict the size of the retail store to that applied for, namely a gross floor area of 1,625 square metres and a total net sales area of 1,250 square metres. This could be secured by way of a conditional grant of planning permission for the proposed retail store.

Subject to this planning control and in the circumstances of the relatively limited amount of retail impact it would have on Tranent Town Centre and elsewhere in East Lothian the application site is an appropriate location for the proposed retail store.

On these considerations the proposed retail store does not conflict with Policy 3 of the approved South East Scotland Strategic Development Plan (SESPlan), Policy R1 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on retail development.

At present, the retail store immediately to the east of the application site is used for the sale of comparison goods. As Roderick MacLean Associates Ltd notes, if those two sites were combined, then there would be an opportunity in the future for development of a single, larger retail store with more potential to service main food shopping requirements and claw back greater levels of leakage. It would be for the Planning Authority through the determination of any future application to decide whether or not the development

proposed in it was acceptable. A grant of planning permission for the proposed retail store would not prejudice any such future determination.

A further requirement of Scottish Planning Policy is that proposed retail developments be capable of being accessible from most parts of the expected catchment area by public transport, by walking and by cycling. Policy R1 of the adopted East Lothian Local Plan 2008 requires that where a town centre or edge of centre location is not reasonably available, proposals should be in a location that is, or can be made accessible to pedestrians and public transport as well as by private car.

The site is accessible to walkers and cyclists via existing roads and footways. There are bus stops within 400 metres of the site at Haddington Road. Bus services from these bus stops combine to provide around 7 buses per hour. The proposed retail store would therefore be reasonably accessible by regular, frequent and convenient public transport services and by walking and cycling routes. On this consideration the proposed retail store is consistent with the requirements Policy R1 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy.

The Council's Transportation service has considered the transport assessment submitted by the applicant and agrees with the findings that there will be no capacity issues in terms of traffic impact on the local road network generated by the proposed development.

Concern has been raised by a number of representors and by Tranent Community Council about the added traffic that would come through Muirpark Terrace in an already busy street.

The Transportation service has carefully considered this matter. They advise that vehicles accessing the new retail store from the south of Tranent would increase traffic on Muirpark Terrace. In this regard, the applicant's Transport Assessment predicts that during the peak hours there would be in the region of 23 additional two way vehicle trips on Muirpark Terrace equating to an additional vehicle every 2-3 minutes. These findings are accepted by the Transportation service, who advise that the proposed retail store would not have a detrimental impact on road safety within the Muirpark Terrace area. Given this, they do not advise that there is a need for any additional traffic calming measures, as recommended by the Community Council. The Transportation service further advise that a report was commissioned in November 2009 by the Council to determine the effects on the junction of High Street and Ormiston Road if Muirpark Terrace were to be closed to through vehicles. The conclusion of that report determined that Muirpark Terrace should remain open, as it would have a significant impact on the operational capacity of the junction of High Street and Ormiston Road. The Transportation service advise that closing Muirpark Terrace is not a viable option.

In terms of the junction of High Street and Ormiston Road, the Transportation Service advise that it would run at or near capacity in the peak periods, which would make the junction sensitive to any fluctuations in vehicle flows. They accept even with the additional traffic generated by the proposed retail store, the junction of High Street and Ormiston Road would operate satisfactorily.

In respect of concerns raised by one of the objectors, the Transportation Service do not consider that the wall that is proposed to enclose the service yard would constitute a risk to road safety.

The Transportation service raise no objection to the proposals subject to conditions being imposed relating to issues of the design of the site access, cycle parking, the

submission of a Construction Method Statement and the submission of a Green Travel Plan.

The Transportation service are satisfied in principle with the proposed access to the site. However a detailed design is required to ensure that the new junction is designed in accordance with the standards set out in the East Lothian Council Standards for Development Roads and in accordance with an independent safety audit of the new junction. They also recommend that a double gully should be constructed on the eastern side of the new access junction to catch surface water running from east to west down Haddington Road. These matters of detail could be controlled by a condition imposed on a grant of planning permission.

In respect of construction works, the Transportation service recommend that prior to the commencement of development, a Construction Method Statement to minimise the impact of construction activity on the amenity of the area 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 delivery traffic movements and should include the proposed hours of working. A Construction Method Statement can be secured through a condition imposed on the grant of planning permission for the proposed retail store development.

The Transportation service further recommends that the applicants develop a green travel plan for staff and customers to minimise private car trips. This should make every effort to encourage use of alternative modes of transport such as buses, cycling and walking. The Transportation service also recommends that cycle parking be provided within the site at a rate of 1 space for customers plus one for employees per 300 square metres gross floor area. The creation of a green travel plan and the provision of adequate cycle parking could reasonably be secured by conditions imposed on a grant of planning permission.

With the imposition of conditions to cover the issues raised by the Transportation service the proposal does not conflict with the locational tests of transportation and access set out in Scottish Planning Policy and would meet the tests of Policy T2 of the adopted East Lothian Local Plan 2008.

The Council's Access Officer raises no objection to the proposed retail store, being satisfied that it would not have any impact on the public right of way that is immediately to the west of the application site.

The Council's Waste Services Officer raises concerns that no recycling point is proposed as part of the proposed retail store development. Such provision is required by Policy DP23 of the adopted East Lothian Local Plan 2008. A condition can be imposed on a grant of planning permission for the proposed retail store to require details of a recycling facility to be submitted to and approved by the Planning Authority and to secure its implementation prior to the retail store opening for trade. Subject to the imposition of this condition, the proposed retail store is consistent with Policy DP23 of the adopted East Lothian Local Plan 2008.

The main element of built form would be the retail store building, which would be sited on the eastern part of the site. The site is in an important gateway location on the west side of Tranent.

The main built element of the development, the proposed retail store building, is principally designed for the functionality of its intended use. It would partly be seen in

relation to the existing buildings to the east of the application site. In this regard, the retail store building would not appear as an isolated feature in its urban setting.

The retail store building would have a relatively low profile, with the ridgeline of the shallow curved roof of the building being 7 metres above ground level. With its curved roof, the stone cladding of parts of its walls and extensive areas of glazing, particularly its south frontage, the proposed retail store building would add visual interest to the character and appearance of the area. It would be of a size, scale and design in keeping with the existing buildings to the east of the site and thus appropriate to its location. It would not appear as an incongruous feature in its setting or as an over development of the site. In their positional relationships with the retail store building, neither would the car park and other associated development of the site.

In view of the above, it can be concluded that the proposed development is an appropriate scale for its location and would not be harmful to the visual amenity of the area. In this regard the proposed development is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESPlan) and Policies DP1 and DP2 of the adopted East Lothian Local Plan 2008.

The Policy and Projects Manager is satisfied with the applicant's landscaping proposals. A condition can be imposed on the grant of planning permission for the proposed retail store to secure the implementation of the proposed scheme of landscaping.

In its proposed position the proposed retail store building would not by its physical form harmfully impose itself on or dominate the residential properties to the south and west of the application site.

The proposed building by its positioning and distance from nearby housing would not give rise to harmful overlooking or overshadowing of neighbouring property.

The Council's Environmental Protection Manager recommends that access to the shop by commercial vehicles for delivery purposes should be only permitted between 0700-2300 hours on any day of the week. He further recommends that the service yard should be enclosed by a 3.5 metres high wall with a superficial mass of 23kgm<sup>-2</sup>. In order to protect the amenity of occupiers of nearby residential properties from noise emanating from the service yard or from the operation of any plant or equipment, the Environmental Protection Manager recommends that limits be imposed to control noise emissions. To safeguard against light pollution of nearby residential properties, the Council's Environmental Protection Manager recommends that (i) any lighting columns within the application site should be operated in such a manner that the Upward Light Ratio (ULR) does not exceed 5%; (ii) that Light Trespass (into windows) of nearby residential properties, measured as Vertical Illuminance in Lux, (Ev), should not exceed 10 between the hours of 0700-2300 and should not exceed 2 between the hours of 2300-0700; and (iii) that glare from the lighting columns, measured as Source Intensity, (I), should not exceed 10,000 cd between the hours of 0700-2300 and should not exceed 1000 cd between the hours of 2300-0700. These recommended controls can be secured through conditions imposed on the grant of planning permission for the proposed retail store. Subject to the imposition of conditions to cover all of these recommended controls it is not considered that the proposed development would have a detrimental impact on any nearby residential property.

The Coal Authority have been consulted on this planning application, as the site is located within a Coal Authority Referral Area. They raise no objection to the proposed retail store, although they recommend that the intrusive investigation works recommended within the applicant's Coal Mining Risk Assessment Report should be

undertaken prior to the commencement of development. Moreover, any identified mitigation measures should be fully undertaken prior to the commencement of development. These requirements could be secured by a conditional grant of planning permission for the proposed retail store development.

The Scottish Environment Protection Agency raise no objection to the proposed retail store.

Scottish Water were consulted on this planning application but provided no comments on it.

The proposed development by its scale and prominent public location would have a significant impact on the local environment and thus in accordance with the requirements of Policy DP17 of the adopted East Lothian Local Plan 2008 it should incorporate artwork either as an integral part of the overall design or as a related commission. This can be secured by means of a condition on the grant of planning permission for the proposed retail store.

The application site is within the inventory boundary of the Battle of Prestonpans. The Battle of Prestonpans is included within the Inventory of Historic Battlefields.

Historic Scotland raise no objection to the proposed retail store, being satisfied that it would not harm the Battle of Prestonpans site.

The Council's Archaeology Officer advises that the site is unlikely to contain any archaeological remains, as the site is located at the extreme southern edge of the battlefield site. Even if there were archaeological remains, the Archaeology Officer advises that these would have likely been destroyed by the development of the previous hotel building and its car park. Consequently he raises no objection to the proposed retail store.

#### 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 The retail store hereby approved shall have a gross floor area no greater than 1,625 square metres and a net sales floor area no greater than 1,250 square metres. The retail store hereby approved shall not be subdivided to form more than 1 retail unit.

Reason:

In order to retain control over the format of retail development at the site and in the interests of safeguarding the vitality and viability of the retail function of Tranent Town Centre.

- 3 Prior to the commencement of development, details of the proposed site access junction with Haddington Road shall be submitted to and approved by the Planning Authority. The details to be submitted shall be based on the proposed access junction illustrated in docketed drawing no. IMA-11-129-009 Rev B and shall be designed in accordance with the standards set out in the East Lothian Council Standards for Development Roads and with an independent safety audit of the new junction. The details shall also show provision of a double gully on the eastern side of the new access junction that shall be designed to catch surface water running from east to west down Haddington Road.

The site access junction with Haddington Road shall be formed in accordance with the details so approved and prior to the retail store opening for trade.

Reason:

To ensure that adequate access is available in the interest of highway safety.

- 4 The retail store hereby approved shall not be brought into use unless and until the car parking and manoeuvring areas shown on the docketed site layout plan have been provided.

The car parking and manoeuvring areas as provided shall not be used for any other purpose unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure that adequate manoeuvring areas and off street car parking facilities are available in the interest of highway safety.

- 5 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction. The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 6 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.

- 7 A Green Travel Plan to minimise private car trips and to encourage use of alternative modes of transport such as buses, cycling, walking shall be submitted to and approved by the Planning Authority prior to the retail store opening for trade. Additionally the Green Travel Plan shall include details of the measures to be provided, the methods of management, monitoring, review, reporting and duration of the Plan.

The approved Green Travel Plan shall be implemented prior to the first opening of the retail store.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the retail store use.

- 8 Details of the provision of cycle parking within the site shall be submitted to and approved in writing by the Planning Authority prior to the retail store opening for trade. The cycle parking shall be provided within the site at a rate of 1 space for customers and 1 space for employees per 300m<sup>2</sup> of the gross floor area of the retail store hereby approved. The customer cycle parking shall be in the form of Sheffield cycle racks and staff cycle parking shall be in a lockable area.

The approved cycle parking shall be installed on site prior to the retail store opening for trade.

Reason:

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

- 9 Prior to commencement of development details of a recycling point to be provided within the

application site shall be submitted to and approved by the Planning Authority.

The recycling point shall be installed in accordance with the details so approved and prior to the retail store opening for trade.

Reason:

To ensure that adequate facilities are provided to ensure compliance with the Council's policies for recycling.

- 10 Prior to any use being made of the retail store hereby approved, the service yard shall be enclosed by a gate and a 3.5 metres high wall, in the position shown for them on the docketed site layout plan. The wall to be erected shall have a superficial mass of 23kgm<sup>-2</sup>.

The gate and 3.5 metres high wall shall thereafter be retained in place, unless otherwise approved in writing in advance by the Planning Authority.

Reason:

In the interest of safeguarding the amenity of the occupiers of neighbouring residential properties.

- 11 The Rating Level, LArTr, of noise emanating from the service delivery yard 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". The difference between the Rating Level and Background Level can be increased to 10dB where the noise source does not have a tonal element.

Reason:

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

- 12 Noise associated with the operation of any refrigeration plant and/or equipment shall not exceed Noise Rating curve NR15 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any neighbouring residential property. All measurements to be made with windows open at least 50mm.

Reason:

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

- 13 Prior to the retail store opening for trade details of lighting columns to be installed within the application site shall be submitted to and approved by the Planning Authority and the lighting installed shall accord with the details so approved.

Any lighting columns so approved shall be designed and operated to ensure compliance with the following requirements:

(i) Any lighting columns shall be operated in such a manner that the Upward Light Ratio (ULR) does not exceed 5%;

(ii) Light Trespass (into windows) of both existing residential dwellings and residential dwellings at Pinkie Mains that are approved but not yet built, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 10 between the hours of 0700-2300 and shall not exceed 2 between the hours of 2300-0700; and

(iii) Glare from the lighting columns, measured as Source Intensity, (I), shall not exceed 10,000 cd between the hours of 0700-2300 and shall not exceed 1000 cd between the hours of 2300-0700.

Reason:

To safeguard the amenity of nearby residential properties and the visual amenity of the area.

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

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



Berberis or Pyracantha.

Reason:

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

- 15 Prior to the commencement of development, details of all boundary treatments for the site shall be submitted to and approved by the Planning Authority.

Development shall thereafter be carried out in accordance with the details so approved.

Reason:

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

- 16 Details and samples of the materials and finishes to be used for the walls, roofs, windows and doors of the building shall be submitted for the prior inspection and approval in writing by the Planning Authority .

The development shall be thereafter undertaken in accordance with the details and samples 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 character and appearance of the area.

- 17 Prior to the commencement of development details of artwork to be provided on the site or at an alternative location away from the site shall be submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the retail store being open for trade.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

- 18 Prior to the commencement of development, the intrusive investigation works recommended within the Coal Mining Risk Assessment Report, a copy of which is docketed to this planning permission, shall be fully undertaken.

Any remedial works or mitigation measures identified by the undertaking of the intrusive investigation works shall be undertaken prior to the commencement of development.

Reason:

To protect the public and environment from the coal mining legacy of the application site.

*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 3 September 2013  
**BY:** Depute Chief Executive  
(Partnership and Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

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Application No. **13/00461/ADV**  
Proposal Display of advertisements (Retrospective)  
Location **26 Victoria Road  
North Berwick  
East Lothian  
EH39 4JL**  
Applicant Mr S Stewart and Mr C Cockburn  
Per Somner Macdonald Architects  
RECOMMENDATION Application Refused

#### PLANNING ASSESSMENT

On 11 January 2012 planning permission 11/00064/P was granted for the change of use of the former coastguard station building at 26 Victoria Road, North Berwick to use as a restaurant and takeaway. Planning permission was also granted for an external decked seating area, for the installation of vents and a flue on the building, and for the addition of a bin store to its north elevation wall.

There has been a commencement of use of the building as a restaurant and takeaway so approved (under the trading name of 'The Rocketeer') and therefore that is now the authorised use of the building.

The building is on the east side of Victoria Road, close to the junction of Victoria Road with Melbourne Road. It is within a mixed use area of North Berwick as defined by Policy ENV2 of the adopted East Lothian Local Plan 2008. It is also within the North Berwick Conservation Area.

The building is detached and single storey in height. It has a narrow strip of ground all around it, the edges of which are enclosed by a low stone boundary wall.

On 19th October 2012 application for advertisement consent in retrospect 12/00522/ADV was refused for two non-illuminated timber panel signs that were being displayed on the outside of the building of 'The Rocketeer' at 26 Victoria Road. The

reason for refusal was that "By their size and form the signs, including the brackets of them are visually prominent, intrusive and incongruous advertisement displays on the building harmful to the amenity of the area, including the special architectural and historic character of the Conservation Area and the setting of Anchor Green and of the scheduled monument of St Andrews Church and the Category B listed Old Parish Church Porch".

The decision to refuse advertisement consent 12/00522/ADV was subsequently appealed to the Scottish Ministers (Ref: ADA-210-21) and the appeal was allowed on 28th March 2013 on the grounds that: the proposed two sign boards attached to this stand alone business premises would be no more detrimental to amenity compared with individual letters attached to the building; would not be excessive or so large as to be visually harmful; and the sign boards themselves would not have a detrimental impact on the character of the conservation area or the setting of the adjacent listed building and scheduled monument. In conclusion, the Reporter found that the sign boards would be visually appropriate and sympathetic to the building and its context. The two sign boards are now being displayed on the building.

On 21st December 2012 application for advertisement consent in retrospect 12/00737/ADV was refused for the display of:

- (i) a panel sign on the west gable wall of the building;
- (ii) four signs on the boundary walls enclosing the edges of the narrow strips of land around the building;
- (iii) a free-standing 'A' frame sign; and
- (iv) two licensing and ID signs displayed on the southern side of the maitre'd station on the west elevation wall of the building of 'The Rocketeer' at 26 Victoria Road.

The reasons for refusal were that:

- (1) The advertisements in the form of the five panel type signs and the two licensing and ID signs amount to unsightly obtrusive advertisement clutter harmful to the amenity of the area, including the special architectural and historic character of the Conservation Area and the setting of Anchor Green and of the scheduled monument of St Andrews Church and the Category B listed Old Parish Church Porch; and
- (2) The continuing display of the freestanding 'A' board sign would set an undesirable precedent for the display of further such advertisements of this type on the footpaths of Victoria Road and other parts of Anchor Green that would create unsightly advertisement clutter that would be harmful to the amenity of the area and by its positioning on a footpath it is likely to cause an obstruction to users of the footpath and as such is a public safety hazard.

The decision to refuse advertisement consent 12/00737/ADV was subsequently appealed to the Scottish Ministers (Ref: ADA-210-22). That appeal was dismissed on 3rd June 2013 on the grounds that the level of signage proposed in the application was excessive to the extent that it would create unnecessary advertisement clutter and as a result would appear unsympathetic to the building and visually harmful to the conservation area in general. The Reporter concluded that the signage would be contrary to the interests of amenity and would neither enhance nor preserve the character or appearance of the conservation area.

Advertisement consent is now being sought in retrospect for the display of a portable panel type sign on each of the south and west boundary walls enclosing the edges of the narrow strips of land around the building and the display on the land to the west of the west boundary wall of a free-standing 'A' frame sign.

Each of the portable panel type signs being displayed on the south and west boundary walls enclosing the edges of the narrow strips of land around the building is essentially comprised of two menu boards, each some 900mm high by 700mm wide and of an overall size of 900mm high by 1.4 metres wide. Their attachment to the boundary walls is by black metal brackets that hook over the top of the walls. Each of the signs is constructed of aluminium with a black frame surround and the graphics of them are printed onto vinyl attached to the aluminium. The lettering of each of the signs is black and red on a white background.

The free-standing 'A' frame sign is being displayed in a position on the narrow footpath that is to the west of the boundary wall enclosing the narrow strip of land on the west side of the building, between that boundary wall and the public road of Victoria Road. It comprises of two black chalkboards with handwritten white lettering on them that reads "ROCKETEER RESTAURANT", "SIT OUT OR TAKEAWAY", "FOOD AND DRINK AVAILABLE". Each chalkboard measures some 900mm high by some 600mm wide.

The advertisements are not illuminated and no form of illumination is proposed.

The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 limits the exercise of the powers of control of advertisements solely to the interests of amenity and public safety. When exercising such powers a planning authority shall in the interests of amenity, determine the suitability of the use of a site for the display of advertisements in the light of the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest; and when assessing the general characteristics of the locality the authority may disregard any advertisements being displayed therein.

Policy DP10 (Advertisements) of the adopted East Lothian Local Plan 2008 is a plan wide policy that sets standards for the control of the display of advertisements within East Lothian. Due to the limits of the exercise of powers of control of advertisements set by the Control of Advertisements (Scotland) Regulations 1984, Policy DP10 cannot be the determining factor in the case of an application for advertisement consent. It is nevertheless a basis for the consideration of whether or not a proposed advertisement would be harmful to amenity or public safety.

Two public representations to the application have been received. They are both from the same neighbouring property and raise objections to the application on the grounds that:

- i. the signs have a detrimental impact on the Conservation Area;
- ii. the signs are unsympathetic to the building and visually harmful to the Conservation Area;
- iii. the signs have already been refused and the applicant has not changed their design, content or appearance prior to resubmitting this current application; and
- iv. the signs are inappropriate to the historic area.

The Council's Transportation service has no objections to the two portable panel type signs on the stone boundary walls that enclose the edges of the narrow strips of land around the building. By their form and their positions they do not constitute a hazard to road or other public safety.

The premises are within the North Berwick Conservation Area. Policy DP10 of the adopted East Lothian Local Plan 2008 states that within conservation areas advertisements will only be approved where their design, materials, positioning and detail are sympathetic to the character of the building on which they are to be displayed and the surrounding area. Fascia boards will only be permitted if they are an integral part of the design of the shopfront or building.

The premises occupy a prominent position in the streetscape on the east side of Victoria Road, close to the junction of Victoria Road with Melbourne Road. The building is of a simple rectangular form and is of a traditional vernacular design that contributes to the special character and appearance of the Conservation Area.

Although the two portable panel signs being displayed on the south and west boundary walls enclosing the edges of the narrow strips of land around the building are not fascia board signs they are clearly of a board type. The stone boundary walls are not designed to have such board type signs displayed on them in any integral way. Furthermore, each of these two board type signs are of aluminium construction with metal framing and are relatively large in comparison with the size of the boundary walls. The stone boundary walls enclosing the edges of the narrow strips of land around the building are only some 1.2 metres in height and the portable board type signs by their height of some 900mm effectively bisect the boundary walls, allowing little of the stonework of the walls to be read and appreciated above and below the top and bottom edges of each of the signs.

In their positions displayed on the south and west boundary walls enclosing the edges of the narrow strips of land around the building, the two portable board type signs are readily visible in public views from Victoria Road to the west, Melbourne Road to the south and from Anchor Green to the south and west of the premises.

Although the number of signs is less than that of refused advertisement consent application 12/00737/ADV, nonetheless the two portable board type signs now displayed together and alongside the timber panel signs previously approved for the east and south elevation walls of the building, appear as obtrusive and unnecessary advertisement clutter not in keeping with the architectural character and appearance of the building and its stone boundary walls. As a result they appear unsympathetic and not in keeping with the architectural and historic character of the building and are harmful to the amenity of the area, including the special architectural and historic character of the Conservation Area, the setting of Anchor Green and the setting of the scheduled monument of St Andrews Church and the Category B listed Old Parish Church Porch.

In that the advertisements in the form of the two portable board type signs amount to unsightly obtrusive advertisement clutter harmful to the amenity of the area they conflict with the guidance for the control of advertisements in conservation areas given in Policy DP10 of the adopted East Lothian Local Plan 2008.

The 'A' frame sign is freestanding and in its position on the footpath to the west side of the premises it is readily visible from Victoria Road and Anchor Green. Its continuing display would set an undesirable precedent for the display of further such advertisements of this type on the footpaths of Victoria Road and other parts of Anchor Green that would create unsightly advertisement clutter that would be harmful to the amenity of the area.

The Council's Transportation service advises that in being freestanding and positioned on a footpath the 'A' frame sign is likely to cause an obstruction to users of the footpath and as such is a public safety hazard.

In that it could lead to unsightly advertisement clutter harmful to the amenity of the area the freestanding 'A' frame sign conflicts with the guidance for the control of advertisements in conservation areas given in Policy DP10 of the adopted East Lothian Local Plan 2008.

## RECOMMENDATION

It is recommended that:

1. Advertisement consent be refused retrospectively for the display of the signs for the undernoted reasons.

2. Authorisation be given for the taking of enforcement action to secure the removal of the two unauthorised portable board type signs and their brackets and the freestanding 'A' frame sign if they have not already been removed from the surrounds of the building within 1 month of the date of the decision notice for this application, with the period for compliance with the enforcement notice being one month.

- 1 The advertisements in the form of the two portable board type signs, by virtue of their size, form, positioning and external finish and their number, amount to unsightly obtrusive advertisement clutter harmful to the amenity of the area, including the special architectural and historic character of the Conservation Area and the setting of Anchor Green and of the scheduled monument of St Andrews Church and the Category B listed Old Parish Church Porch.
- 2 The continuing display of the freestanding 'A' board sign would set an undesirable precedent for the display of further such advertisements of this type on the footpaths of Victoria Road and other parts of Anchor Green that would create unsightly advertisement clutter that would be harmful to the amenity of the area and by its positioning on a footpath it is likely to cause an obstruction to users of the footpath and as such is a public safety hazard.

*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)*