



**MINUTES OF THE MEETING OF THE  
PLANNING COMMITTEE**

**TUESDAY 3 SEPTEMBER 2013  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

Councillor N Hampshire (Convener)  
Councillor D Berry  
Provost L Broun-Lindsay  
Councillor S Currie  
Councillor A Forrest  
Councillor J Gillies  
Councillor J Goodfellow  
Councillor D Grant  
Councillor W Innes  
Councillor P MacKenzie  
Councillor J McMillan  
Councillor J McNeil  
Councillor J Williamson

**Council Officials Present:**

Mr R Jennings, Head of Housing and Environment  
Ms M Ferguson, Corporate Legal Adviser  
Mr I McFarlane, Service Manager, Development Management  
Mr K Dingwall, Principal Planner  
Ms C Molloy, Senior Solicitor  
Mr D Irving, Planner  
Ms S Greaves, Planner  
Mr G Talac, Transportation Planning Officer

**Clerk:**

Ms A Smith

**Visitors Present:**

Item 1 – Mr Marr, Mr Thomas  
Item 2 – Mr Clowes, Mr Beck, Mr Hodge  
Item 3 – Mr Scott  
Item 4 – Mr Dunlop, Mr Laing  
Item 5 – Mr Stewart

**Apologies:**

Councillor T Day  
Councillor T Trotter  
Councillor M Veitch

**Declarations of Interest:**

Item 3 – Provost Broun-Lindsay indicated he would leave the Chamber for this item due to a perceived conflict of interest.

Item 4 – Councillor Gillies advised he was a member of the Co-operative Regional Board so would leave the Chamber for this item.

Item 5 – Councillor Berry declared an interest in relation to the operation of his own business.

**1. PLANNING APPLICATION NO. 13/00105/P: 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) AT 8A WEST GARLETON HOLDINGS, HADDINGTON**

A report had been submitted in relation to Planning Application No. 13/00105/P. The Service Manager, Development Management, Iain McFarlane, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

In response to questions Mr McFarlane clarified matters in relation to the objections, the septic tank and SEPA requirements. He advised that the houses of West Garleton were not designated as a settlement in the East Lothian Local Plan 2008 (ELLP). He confirmed the Council shared a gypsy/traveller site at another location with Midlothian Council. He stated there was no specific planning policy relating to the provision of gypsy/traveller sites within the ELLP.

Mr Marr, of Forbes Marr Architects, agent for the applicants, addressed the Committee. He indicated that the ELLP, community planning and local housing strategy all supported the right of people to be housed regardless of ethnic status. The applicants wished to continue their chosen lifestyle but to do this locked into a community. This family had been resident in East Lothian for some time. They wished to have private, secure pitches on their own land. The Scottish Government supported private permanent pitches to meet the needs of gypsy/travellers, a recognised ethnic group. The proposal was consistent with relevant policies. In relation to the Structure Plan 2015 the proposal was consistent with the development strategy to promote a more inclusive society. Since 2003 Scottish Planning Policy (SPP) had required local authorities to identify locations that would be suitable for gypsy/traveller sites; East Lothian Council had yet to do this.

Mr Marr clarified issues regarding utility facilities, touring vans, number of caravans left on site if others were touring, parking facilities and self declaration.

Mr Thomas, of apt planning & development, spoke against the application on behalf of a group of local residents. He remarked that the term gypsy/traveller could be emotive but the residents wished to stress they had nothing against the applicants personally. The proposal for a permanent residence on site was contrary to Policy DC1 of the ELLP. There had been previous attempts to develop this site but none achieved; historically this was an agricultural plot. He queried the permitted class 4 use. He made reference to the road/junction issues. Despite West Garleton Holdings

not being a defined settlement the Council could not ignore the impact of development on residents. The site was opposite residential properties. He stated that planning permission would not have been secured for a house on this site and this application for permanent pitches should therefore not be granted.

Mr McFarlane clarified that there was provision in the Caravan Act for sites to operate for 5 caravans without a licence; he added that the Council's enforcement team was not currently pursuing any enforcement action in respect of this site.

Local Member Councillor McMillan stated the key issue was the absence of an appropriate Council policy. He referred to comments made by Mr Marr regarding the requirement by local authorities to look at the needs of this ethnic group. In relation to the policy implications he felt more time was needed to look at this issue in more detail. He made reference to the need to respect the culture of this ethnic group. In relation to this individual application however there were problems with this site, particularly the road junction. He felt this was not an appropriate site for 2 reasons - access and precedent.

Local Member Provost Broun-Lindsay agreed it was a matter of concern that the Council did not have a policy in the ELLP that addressed this issue. However, he believed that this application should be determined today. He appreciated the need to be sympathetic to SPP guidance. He understood why the objector wished to invoke Policy DC1; unfortunately mobile homes were excluded from this policy. He did share his colleague's concern about the road/speed of traffic/agricultural vehicles. He doubted however that this was sufficient reason to refuse the application. On balance he would be supporting the officer's recommendation to grant permission.

The Convener stated the site was in operation; the layout had been improved and facilities were going to be provided. He made reference to the lack of a policy to address these types of small private sites. He stated there was very little reason for refusal. However, due to concerns raised by Councillor McMillan, he proposed that the Committee should grant consent but only on a 5 year basis - this would give the Council time to monitor the impact and operation of this site and also time to introduce a policy to address any matters that arose. This would be the first privately owned and operated gypsy/traveller site in East Lothian; if the applicant operated the site well then there should be no issues at the reapplication stage.

Councillor Innes indicated that if a time limited permission was competent, he would second this proposal.

In response to a question from Councillor Currie, Mr McFarlane advised that if temporary permission was granted then a fresh application would be required at the end of the specified period. Councillor Currie expressed concern; the Committee should deal with applications in accordance with current policies, to do otherwise would give the possibility of appeal.

Councillor Berry, referring to his many years on this Committee, remarked that he had never been aware of a temporary planning consent being given before.

Mr McFarlane indicated there was no officer recommendation for temporary consent. He informed Members that temporary consent was given occasionally, for storage provision for example; the principle of a temporary consent was not unusual in the planning system. In response to an earlier point he advised that any condition on a grant of planning permission could be appealed. If the decision on an application had been taken at Committee level then the appeal would be to the Scottish Government.

The Convener reiterated that he was trying to ensure the Council set the right consent for this site; this was the first application of this kind before this Committee. The applicant would be able to appeal the condition. He moved that his proposal, to grant planning permission for a period of 5 years, be put to the vote.

### **Decision**

The recommendation that planning permission should be granted, for a period of 5 years, was put to the vote and received **13 votes for** and **none against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

- 1 Unless otherwise approved by the Planning Authority the use of the site for Gypsy/Traveller pitches as hereby approved shall cease no later than five years after the date of this planning permission, at the end of which the caravans, utility units and raised decking areas hereby approved shall be removed entirely from the site and the use of the site and the land of the site restored to its former condition, to the satisfaction of the Planning Authority.

Reason:

To enable the Planning Authority to control the long-term use of the site, in the interests of the amenity of the area.

- 2 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.

- 3 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.

- 4 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.

## **2. PLANNING APPLICATION NO. 13/00499/P: ERECTION OF 1 HOUSE, FENCING AND GATE AND FORMATION OF VEHICULAR ACCESS AND TURNING AREA AT LAND ADJACENT TO POST OFFICE, HUMBIE**

A report had been submitted in relation to Planning Application No. 13/00499/P. Mr McFarlane reported that a petition had been hand delivered at the site visit. He informed Members that further to a point made at the site visit as to the line of the west roadside boundary of the site, officers had measured the site. The results

showed a discrepancy in the site layout plan drawn up by the applicant's agent. The agent had verbally confirmed that he did not survey the site. Mr McFarlane advised that, as measured, the site would reduce by some 10 square metres. He indicated that no part of the site as measured was outwith the red line boundary of the application site. The development as proposed could still be carried out subject to a revision to the access arrangements and west boundary frontage. The Transportation service had given a view that the access arrangements could be made satisfactory subject to a condition controlling the boundary treatment of this frontage to maintain access. This would also require amendment of condition 2 as set out in the report which required the implementation of the approved access arrangements. So amended, there would still be sufficient space to retain for a footpath in relation to the Council's core path objectives. The proposed decision set out in the report was to grant consent. Mr McFarlane informed Members that the alternative means of addressing this issue would be to continue the application pending submission of revised plans or to seek a new submission.

Mr McFarlane then responded to questions regarding the original application in 2008, various parking matters and related advice from Transportation. He clarified that this application was not directly related to the earlier 2008 application; this application was a full application in its own right. The earlier application did determine the principle of having a house on site. This new application however had to be considered on its merit.

Mr Clowes, the applicant, addressed the Committee. He informed Members he had respected the advice and guidance from his architect and Planning officers and had complied with legal and technical processes. The site was not a public parking area. Permission had been granted previously for a house on this plot. This site had been freely available and on the market for a long time; his offer had been accepted - he understood there had been no other offers. The design and structure met all the required standards. They had lived in East Lothian for many years; they wished to be part of this local community. The application was recommended for approval by Planning officers and he hoped the Committee would grant permission.

Mr Beck spoke against the application on behalf of Humble, East and West Saltoun and Bolton Community Council. The Community Council considered that the report recommendation was flawed. The proposal went against the Scottish Government's planning principles; the role of the planning system was to ensure a development was in the public interest in the long term and planning decisions should help to increase economic viability. He referred to the 2008 application which had been granted consent, stating that aspects of this new proposal differed considerably. The Community Council also had concerns about the volume and speed of traffic on the B6368. If this application was approved there would only be 2 parking spaces left outside the shop. Members should refuse this application; building on this site would prioritise the application over the needs of the community.

Mr Beck answered questions regarding any objection to the original application and consideration of a community purchase of the site.

In response to questions from Members, Grant Talac, Transportation Planning Officer, clarified the assessment/position with regard to parking.

Mr Hodge, adjoining land owner to the application site, spoke against the application. He supported all comments made by Mr Beck. The plans submitted by the applicant were flawed. He made reference to the re-measurement that had to be done by Planning officers. The proposal was for a house, parking and turning area; the size of

the site was not sufficient for this. The proposal would prejudice the provision of a footpath. SEPA was aware the village septic tank was at its peak. He also made reference to the proposed core footpath which would cross his land. The local community objected strongly to this planning application, it was out of character for the village and the area; there were other sites better suited.

Local Member Provost Broun-Lindsay stated there was no question this was a very tight site. He made reference to the conflict between the community and the landowner regarding usage of the site. He remarked that the community had an opportunity earlier to purchase the site; they chose not to do so and were now trying to stymie what was a legitimate use for this land. Although communities needed car parking facilities, and the Council worked with communities where possible, he was not sure that this was sufficient reason to refuse the application when Planning officers recommended approval. He made reference to the 2008 application. He noted the proposed house would be set far enough back to allow a turning area. The ad hoc parking bays were there because the shop owner had decided not to use this area as garden ground. On balance, he would be supporting the officer's recommendation; he realised that this would be upsetting to the community.

Local Member Councillor McMillan indicated this was possibly the most difficult application to come before this Committee. He had the greatest respect for the work of the Community Council who had made a strong case for the future of the community and felt that this house was not appropriate. This was not an issue about the house but an issue regarding the community and its facilities, including parking provision. He noted that the applicants had gone through the appropriate planning processes and Planning officers stated this was an acceptable development of the site. On balance, and after great consideration, he would be supporting the report recommendation and hoped the community could find a way to resolve the parking issues, which may require the assistance of the Council.

Councillor MacKenzie, in relation to parking, made reference to the comments from the Transportation officer. He remarked that in Longniddry there were dedicated parking spaces but people parked outside the shops and always would. He would, in accordance with the report recommendation, be supporting the application.

Councillor Innes stated that many of the arguments put forward by the Community Council were not valid, they were 5 years out of date; the principle of housing on this site had been established. He remarked that if the Committee went against the report recommendation and refused the application and it then went to appeal the Council would be derided by the Reporter. With regard to the issues Mr McFarlane had identified, he was satisfied that conditions would be in place to address these. He would be supporting the officer's recommendation, there was no valid reason to refuse the application - he urged other Members to do likewise.

Councillor Berry referred to planning legislation; he pointed out that the proposal had a pavement in the middle of a road; this would inhibit the B6368 considerably - this was a well used road, access was crucial due to limited visibility. It would be far safer if the access was set back from the road. This application was now apparently 20 square metres less once the measurements had been corrected; Members were being asked to support a house which was a fifth larger on a site which was actually smaller. 67 people had signed the petition. Humble only had one facility, the shop, which needed this space; access to the shop would be blocked by the new house. He queried why the Council would insist on a path but not on parking provision. The application should be refused because the community wanted it refused; Members

would be abdicating responsibility if this community's concern was ignored. He would not be supporting the recommendation.

Councillor Currie commented that it was the role of the Committee to represent the whole community of East Lothian, not just one particular area of the county. He agreed with Councillor Innes's comments about the potential appeal position if the application was refused. This was private land; the owner was entitled to sell, the applicant entitled to buy. All objectors, including the petitioners, seemed to be objecting not just to this house but to the existence of any house at all on this site. These objections were too late; the decision to grant permission for a house on this site had been taken in 2008. The only decision the Committee could take therefore was to approve the application. He reluctantly agreed with the Planning officer's recommendation.

The Convener referred to issues regarding the size of the site which had needed to be addressed by Planning officers. There was also the issue in relation to encroachment of the carriageway; he queried whether this could be controlled by an appropriately worded condition.

Mr McFarlane advised that condition 1, which related to final site setting out details, applied as standard. There would be a new condition 2 regarding access arrangements. There would be a new condition 3 regarding enclosure at the west boundary of site. The conditions as detailed in the report would be renumbered from condition 2 onwards, with condition 2 becoming condition 4 and so forth.

The Convener moved that the recommendation to grant planning permission, taking into account the amendment of conditions as outlined by Mr McFarlane, be put to the vote.

Councillor Berry opposed this recommendation; this was not seconded.

### **Decision**

The recommendation that planning permission should be granted as outlined above was put to the vote and received **12 votes for** and **1 vote against**; there were no abstentions. Councillor Berry asked that his dissent be recorded. The Committee agreed to grant planning permission subject to the following conditions:

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

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

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

Reason:

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

- 2 Prior to the commencement of development of the house hereby approved, revised details of the access arrangements based on an accurate site survey shall be submitted to and approved by the Planning Authority.

Reason:

In the interests of road safety.

- 3 Unless otherwise approved by the Planning Authority, no fence, wall, gate or other means of enclosure shall be erected along the west boundary of the site other than as approved in terms of condition 2 of this planning permission.

Reason:

In the interests of road safety.

- 4 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.

- 5 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.

- 6 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.

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, or any subsequent



Order amending, revoking or re-enacting that Order, no 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.

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, or any subsequent Order amending, revoking or re-enacting that Order, no windows or other glazed openings shall be formed at ground 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.

- 9 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.

*Sederunt – The Provost left the Chamber*

**3. PLANNING APPLICATION NO. 13/00211/P: ERECTION OF WIND TURBINE AND ASSOCIATED WORKS AT QUEEN MARGARET UNIVERSITY, MUSSELBURGH**

A report had been submitted in relation to Planning Application No. 13/00211/P. Mr McFarlane presented the report, summarising the key points. The proposed decision set out in the report was to refuse the application.

Mr McFarlane and Daryth Irvine, Planner, responded to questions about negotiation with the applicant/agent regarding a smaller wind turbine and Typology B and C wind turbines.

Mr Scott, Director of Campus Services at Queen Margaret University (QMU), addressed the Committee. He outlined the background, stating that QMU had been looking at the possibility of having a wind turbine on site since 2004. The proposed location for the wind turbine was the only one viable on site; the proposed size was the only size viable. Extensive pre-application discussion had taken place; there was considerable support for this proposal. QMU was a prominent university in relation to sustainable development; it was well recognised and had won awards for sustainability. He appreciated that wind turbines were emotive; he advised that other alternatives had been investigated. He highlighted the educational benefits and indicated that staff and students were keen to progress QMU's sustainable aims.

Mr Scott and Mr Crawford of Locogen, the agents, responded to questions regarding the height and location of the proposed wind turbine, whether alterations to the proposal had been considered to comply with the Council's guidance, the anticipated financial benefit and details regarding the community consultation.

Local Member Councillor Williamson noted that no objections had been received from any of the statutory consultees. The conclusion of the Screening Opinion stated that there was no requirement for an Environmental Impact Assessment. There had been no objections locally; no-one had approached him with concerns about this application. As stated by Mr Scott, QMU had won many plaudits for sustainability issues; this proposal was a natural progression for QMU. In his opinion the QMU building itself was more visually intrusive than a wind turbine. He stated that even though the proposed wind turbine was classified as Typology B, the purpose and circumstances merited support. He would be supporting the application.

Local Member Councillor McNeil made reference to when university status had been granted to QMU and his delight that East Lothian had a university in its locality. In relation to the proposal he indicated he had received one representation at his surgery. He appreciated QMU's sustainable agenda but agreed with the officer's recommendation to refuse; the proposal did not accord with the Council's policy in relation to wind turbines. He appreciated that the applicant may choose to take this to appeal to Scottish Ministers if the Committee's decision was for refusal.

Local Member Councillor Currie stated the relocation of QMU to East Lothian was of huge benefit to the county and Musselburgh. He praised QMU's record in relation to sustainability issues. With regard to this application, the major issue was the visual impact. He indicated that the size of the QMU building did have an impact when it was built. In relation to the landscape's visual clutter he felt the addition of one wind turbine would not be unduly harmful. He appreciated the Council's policies on wind turbines however he also appreciated that the applicant may go to the Scottish Government if the application was refused. He would be supporting the application.

Councillor Innes remarked that QMU was one of the Council's most important partners. However, the Council had policies in place in relation to wind turbines, approved by Members, which had to be adhered to. He would be supporting the officer's recommendation to refuse this application.

Councillor Berry agreed that QMU was a splendid addition to East Lothian. He expressed regret that this application was before the Planning Committee. He remarked that by his calculations the proposed wind turbine would be the second highest structure in the county. He appreciated the technical argument put forward however he would be supporting, regrettably, the officer's recommendation.

Councillor Goodfellow remarked that if this application was refused and subsequently appealed successfully, there may be 2 wind turbines this height in the county, as an earlier application at West Fenton refused by this Committee had been overturned at appeal by the Scottish Government. He stressed that the Council had a clear policy on wind turbines; it was up to Members of this Committee to support this policy. He would be supporting the officer's recommendation for refusal.

Councillor Grant indicated he would also be supporting the officer's recommendation. Wind turbine applications were difficult to deal with however Members had asked for a policy to address these issues; this was now in place and must be adhered to.

The Convener brought the discussion to a close. He disagreed with an earlier comment; he thought QMU was an attractive building, in an attractive location - locating a wind turbine on this campus would be entirely inappropriate. He stressed that the Council's wind turbine policy had to be adhered to. He expressed concern about the landscape of East Lothian, particularly the lowland area; which now had a number of wind turbines due to the appeals process where the Scottish Government

had overturned decisions by this Committee. He would be supporting the recommendation to refuse planning permission as set out in the report and moved that this be put to the vote.

### **Decision**

The recommendation that planning permission should be refused was put to the vote and received **9 votes for** and **3 votes against**; there were no abstentions. The Committee agreed to refuse to grant planning permission for the following reasons:

- 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.

*Sederunt – Councillor Gillies left the Chamber; the Provost returned*

#### **4. PLANNING APPLICATION NO. 13/00001/P: ERECTION OF A CLASS 1 RETAIL STORE, FORMATION OF VEHICULAR ACCESS, CAR PARKING AND ASSOCIATED WORKS AT TRANMARE HOTEL, TRANENT**

A report had been submitted in relation to Planning Application No. 13/00001/P. Mr McFarlane presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Mr Dunlop, of D2 Planning, the agents for the applicant, addressed the Committee. He advised Members that the proposal had been through the statutory community consultation. Tranent Community Council was supportive in principle. He referred to the retail statement submitted with the planning application, highlighting a number of benefits of the proposal including regeneration of a brownfield site, addressing quantitative and qualitative retail deficiencies and the creation of 100 jobs. He informed Members that the applicant was in discussion with a number of national retailers. If this application was approved the intention was to submit the building warrant in early 2014 and for the store to be open before the end of 2014.

Mr Laing of GL Hearn spoke against the application on behalf of clients The Co-operative Group. The Co-operative was a significant stakeholder in Tranent town centre and had concerns about the impact of this proposal on the town centre. A store of the scale and nature proposed would not be in accordance with the character of the town; it would become the dominant retail store. He disputed several statements in the applicant's retail statement and also in the retail assessment commissioned by the Council. He drew comparisons with the retail situation in Annan. His clients were not against competition but as a town centre operator they had concerns that this application was contrary to the Development Plan.

Mr Laing responded to a number of questions from Members regarding the Co-operative store. He also responded to questions in relation to aspects of the applicant's retail statement and the Council's commissioned retail assessment.

Local Member Councillor Grant referred to the history of the site and to the significant difference of this proposal to the previous building. He indicated he had not received any serious opposition to this application; many people would welcome more choice of shopping in the town. The Council's independent retail assessment stated that the Co-operative supermarket and the town centre would not be adversely affected. There was nonetheless an element of risk if planning permission was granted. In relation to transport matters he did have concerns about the increase in traffic, particularly in/around Muirpark Terrace. The Tenants and Residents Association had campaigned for added safety measures. The traffic situation would have to be monitored carefully. He would be supporting the application but he did have concerns about the traffic.

Councillor Currie remarked that attempts had been made unsuccessfully to invigorate this site; a derelict site was the worst possible situation. The creation of 100 jobs was an important consideration. The objection by The Co-operative was, in his view, a commercial one. Competition was healthy for local communities. There were around 100 new houses in that area of Tranent; having a store on this site would be particularly good for those people without transport. With regard to traffic, he would have hoped by now for more traffic calming measures to have been in place. He would be supporting the report recommendation to grant planning permission.

The Convener moved that the recommendation to grant planning permission as set out in the report be put to the vote.

### Decision

The recommendation that planning permission should be granted was put to the vote and received **12 votes for** and **none against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

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

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

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

Reason:

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

- 2 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-2.

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.

*Sederunt – Councillor Gillies returned to the Chamber*

**5. PLANNING APPLICATION NO. 13/00461/ADV: DISPLAY OF ADVERTISEMENTS (RETROSPECTIVE) AT 26 VICTORIA ROAD, NORTH BERWICK**

A report had been submitted in relation to Planning Application No. 13/00461/ADV. Mr McFarlane presented the report, summarising the key points. The proposed decision set out in the report was to refuse the application.

Mr McFarlane responded to questions. He stated that should the application be approved it would be for the standard term of 5 years. He clarified that it was feasible in theory for this term to be altered but he stressed that good reasons would have to be provided to vary the standard term.

Mr Stewart, the applicant, addressed the Committee. He informed Members that The Rocketeer was very successful and popular with both locals and visitors. He stated that to ensure the continuation of this success it was vital to get permission for the signage applied for; these signs were essential to the operation of this business. He asked the Committee to support the application.

In response to questions Mr Stewart indicated that the colour of the sign could be changed, but stressed the need for it to be visible and legible.

Local Member Councillor Goodfellow remarked that it was extremely regrettable that the Committee was dealing again with a retrospective application; this had to be addressed. With regard to this application he acknowledged that Mr Stewart had turned a derelict building into a very successful business. He appreciated that external signage was essential for this kind of business. He agreed with the Provost however that the white signage was garish. He concluded that this business was good for North Berwick. He would be voting against the report recommendation.

Councillor Currie agreed with his colleague's comments in relation to retrospective applications. He made reference to the amount of other signage in this area of North Berwick. He stated this was a good business, with a good reputation. The worst action the Committee could take would be to impede this business in its continued success. He would also be voting against the report recommendation.

Councillor Innes indicated this was a difficult situation. It was disappointing to have another retrospective application before this Committee. With regards to the signage he felt there should not be a "free for all"; advertisement displays should have, and adhere to, the appropriate permissions. He added however, that there was signage at world heritage sites so it should be possible to have signage outside a North Berwick restaurant. He had sympathy with the applicant and appreciated the need for signage, but it had to be appropriate in terms of style and colour.

Councillor McNeil also commented on retrospective applications. He also made reference to the amount of other signage in the vicinity of the application site, adding that officers needed to inspect the general area in relation to this and take action as appropriate. He would be voting against the report recommendation.

The Provost also remarked on the quantity of signage in this area of North Berwick. He stated that a sense of proportionality was needed when pursuing offenders; this case was less offensive than many, although, as pointed out, it was still an offence. He felt the A Board was a potential problem for passersby. He felt the colour of the signage should be more subdued. He would nonetheless be supporting the application and voting against the recommendation.

The Convener noted this was the second time this matter had been before the Committee. This was a successful business and a popular tourist destination. The business needed to advertise to attract customers. The colour of the signage however may not have been the best choice. He would also be voting against the officer's recommendation. He supported the A Board and the signage on the wall; he felt this kind of advertising should be allowed.

Councillor Goodfellow reiterated his earlier reference to the vast number of signs in this area of North Berwick; he stressed that the Council needed to address this issue. In relation to this application he proposed that planning permission should be granted for a temporary period of 2 years, to then be reviewed. This would allow time for issues regarding the other signage to be resolved.



Councillor Currie disagreed; the application before the Committee should be addressed in accordance with the existing criteria and not for a shorter period.

In response to questions Mr McFarlane advised that each application for advertisement consent was taken for that particular advertisement only; technically if it was replaced or moved then new consent would be required. He reiterated that the standard permission was for a 5 year period. He clarified that some of the other signage in that area was authorised, some not.

Councillor McMillan stated the Council needed to give advice to North Berwick traders regarding signage design and permissions; this issue had to be addressed.

The Convener brought the discussion to a close. He noted that Members generally seemed to be in favour of this application. If this was the case he recommended that the standard 5 year term should be adhered to. He asked Members to vote to grant planning permission.

**Decision**

The proposal that planning permission be granted was put to the vote and received **12 votes for** and **none against**; there were no abstentions. The Committee therefore overturned the report recommendation to refuse to grant planning permission and agreed to grant planning permission subject to the following condition:

- 1 This grant of express consent shall expire on 03 September 2018 after which date, unless further consent is granted by the Planning Authority, the advertisement hereby approved shall be removed entirely from the building and land adjacent to it.

Reason:

Pursuant to Part V18(1) of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee