

REPORT TO: East Lothian Council

MEETING DATE: 25 February 2014

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Planning Application No. 13/00800/PPM – Planning permission in principle for mixed use development comprising residential houses and flats, business (Class 4) with associated development and 2 vehicular accesses on land west of Gateside Road, Haddington

1 PURPOSE

- 1.1 A Pre-determination Hearing is mandatory where a planning application is made for a major development that is significantly contrary to the development plan and consequently has to be determined by a meeting of the full Council.
- 1.2 As the area of the application site is greater than 2 hectares and the principle of development is for more than 50 houses, the proposed development is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development. Furthermore, in being on land allocated by the adopted East Lothian Local Plan 2008 for economic development purposes, the proposed development is significantly contrary to Proposal BUS6 and Policy BUS1 of the local plan.
- 1.3 Application 13/00800/PPM is therefore brought before the Planning Committee for a Pre-determination Hearing prior to the consideration of its merits and determination of the application by the Council at their meeting immediately following the Pre-determination Hearing.
- 1.4 The purpose of this report is to provide the Committee with a description of the development proposal and with summaries of the development plan policies and other material considerations, consultation responses and public representations relevant to application 13/00800/PPM and an assessment of the development proposal. The report also contains an officer's recommendation for determination of the application.

2 RECOMMENDATION

2.1 That planning permission in principle be granted for the mixed use development proposed in planning application 13/00800/PPM subject to:

1. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 designed to secure:

(i) secure from the applicants a financial contribution to the Council of £138,104 (£2,301.73 per unit) towards the provision of additional school accommodation at Haddington Infant School and Knox Academy, as identified by the Council's Executive Director (Support Services);

(ii) secure the provision of 15 affordable housing units within the application site or if it can be demonstrated to the Council that this, or the off-site provision of 15 affordable units is not practicable, to secure from the applicants a commuted sum payment to the Council in lieu of such an on or off-site provision;

iii) that 0.96 hectares of the site be retained as a business park, for class 4 business use and that an application for matters specified in conditions relating to the development of the business units on the business park site be submitted by the applicant at the same time as the first approval of matters specified in conditions for housing on the site;

iv) that the applicants service (including an access and circulation road, footpaths, lighting and utilities) a site extending to not more than 0.5 hectares, located on the eastern side of the overall business park site ("the eastern business site"), and service that site at the same time as the servicing of the housing site;

v) that the applicants work collaboratively with East Lothian Council's Economic Development and Estates units to prepare, agree and implement a Marketing Strategy for the business units; and

vi) that construction of the business units be commenced by the applicant within a period of 3 years from either the date development commences in respect of the residential element of the application site or 1st September 2014, whichever is the earlier, and if this is not the case then the title of the land of the eastern business site be transferred to the Council at no cost to the Council. Thereafter, if the Council has not commenced development of the business units within 24 months then the title of the land of the eastern business site will revert to the applicants at no cost to the Council.

2. The conditions set out in Appendix 1 of this report.

3 BACKGROUND

3.1 Planning Assessment

As a statutory requirement of major development type proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 13/00007/PAN) and thus of community consultation prior to this application for planning permission in principle being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that some 70 people attended the pre-application public exhibition, which was held at the Corn Exchange, Haddington, and that those attendees made a number of queries and suggestions regarding the proposals. The development for which planning permission in principle is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

The application site consists of 3.5 hectares of land at the western side of Haddington. It consists of a field (known as Gateside East) that is located to the east of the Gateside Commerce Park and to the west of Gateside Road. The field is enclosed on its northern, eastern and southern boundaries by a mix of hedgerows and trees.

The application site is bounded to the north by a length of the Haddington to Longniddry railway walk and to the east by Gateside Road, beyond which is a woodland strip and the residential development of Knowesley Park. To the west it is bounded by a narrow road, beyond which is the Gateside Commerce Park.

To the south the site is bounded by the B6471 road, beyond which is agricultural land. This area of agricultural land forms part of a larger area of agricultural land that is allocated for a mixed use development of 750 houses, social and community facilities and associated infrastructure by Proposal H3 (Letham Mains) of the adopted East Lothian Local Plan 2008. In July 2013 planning permission (Ref: 13/00519/PM) was sought for the erection of 385 houses and 48 flats on the western part of that allocated site. In January 2014 planning permission (Ref: 14/00089/PM) was sought for the erection of 258 houses and 119 flats on the eastern part of that allocated site. Both planning applications are pending consideration and no decision has been taken on them.

A residential property known as Gateside Cottage is also located to the southwest of the application site.

In March 2008 planning permission (Ref: 08/00270/FUL) was sought by Tesco Stores Limited/ Santon Group Limited for a retail development of the application site. The retail development consisted of a Class 1 retail store, an associated petrol filling station and associated works. In

February 2012 planning permission 08/00270/FUL was refused for the following reasons:

1 The proposed retail store would result in the loss of allocated business and industrial land that is part of the business and industrial land supply of Haddington and of East Lothian as a whole to an extent that would be detrimental to the economy of East Lothian, contrary to Proposal BUS6 and Policy BUS1 of the adopted East Lothian Local Plan 2008, and Scottish Planning Policy: February 2010.

2 The retail store of the size proposed would allow for a scale of retail use greatly more than that required to address the local quantitative retail deficiency in Haddington identified by the findings of the Haddington Retail Review and because of its scale of use and by its out of town centre location the proposed retail store would have an unacceptable impact on the vitality and viability of Haddington Town Centre. Accordingly the proposed retail store is contrary to Policies RET1 and RET2 of the approved Edinburgh and the Lothians Structure Plan 2015, Policy R1 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010”.

Planning permission in principle is now sought for a residential and business development of the application site.

An illustrative site plan has been submitted with it indicating how the proposed residential and business uses might be accommodated within the site. The business land, which would have an area of 0.96 of a hectare, is shown to be located on the southern part of the application site. Although there are no definitive proposals relating to the layout or type of business units, the site plan shows how five units could be accommodated on the site. It is further indicated that these units could be single storey or two storeys in height and could be contained within a landscape setting. The site plan indicates that the remainder of the site would be put to residential use. The applicants have indicated that some 60 residential units could be accommodated on the part of the application site proposed for residential use. It is further indicated that the residential units would predominantly comprise of two storey detached houses. It is also indicated that a landscaped buffer would be planted between the business and residential uses.

The illustrative site plan indicates that access to the proposed business land could be taken from Gateside Road at a point some 90 metres to the north of the junction of Gateside Road and the B6471 road and that access to the residential part of the site could be taken from Gateside Road at a point approximately 110 metres to the north of the proposed access to the business land.

In a planning statement submitted with the application, the applicants inform that the site has lain vacant and undeveloped despite being allocated for business development for more than 20 years. Even during the most recent peak economic period of the mid 2000's, the only land use put forward for this site which would have resulted in employment

generation was retail development, a development proposal that was refused planning permission (Ref: 08/00270/FUL). The site has not therefore contributed to the sustainable economic growth of the town or region in any manner. Recent appeal decisions for sites in Wallyford and Dunbar have allowed non-business uses on land allocated for business and industrial development. The proposed business development, which could comprise of small scale business units with a combined ground floor space of some 1,500 square metres, would substantially increase the amount of immediately available economic land supply. The applicants estimate that some 30-45 jobs could be created within the business units. Jobs would also be created during the construction process. The proposed housing would effectively contribute towards the recognized housing land shortage within East Lothian.

The application is also supported by an economic report, a transport assessment, a design statement and an extended phase 1 habitat survey.

The economic report concludes that there is insufficient demand to justify all of the site to be developed for business use. It further concludes that the form of development indicatively proposed is appropriate for bespoke business units that would satisfy the demands of specific occupiers. In respect to access, the economic report concludes that the site is one which has the potential to achieve a high visibility and profile aspect, with the access being formed off Gateside Road, and this can only be of benefit during the marketing of it.

The transport assessment evaluates the traffic impact of the proposed development, examines the accessibility of the development by different modes of transport, and provides a framework for a Travel Plan for the proposed development.

A design statement has been submitted with the planning application. The statement provides information on the principles and approach that have guided the design process.

The extended phase 1 habitat survey includes protected species surveys to look for the potential presence of bats and badgers, a survey of plant species, and a basic assessment for site potential use by breeding birds. It informs that there is no suitable roosts for bats, no evidence of badger use of the site, that the site appears to be of negligible value for use by breeding birds, and that no nationally or locally rare plant species were found. It concludes that the site has an inherently low nature conservation value.

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 19 November 2013 the Council issued a formal screening opinion to the applicants. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission in principle. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed mixed use development to be the subject of an EIA.

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

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policies 2 (Supply and Location of Employment Land) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) are relevant to the determination of the application. So too are Proposal BUS6 (Gateside, Haddington) and Policies BUS1 (Business and General Industrial Locations), INF3 (Infrastructure and Facilities Provision), H1 (Housing Quality and Design), H4 (Affordable Housing), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in New General Needs Housing Development), DP1 (Landscape and Streetscape Character), DP2 (Design), DP14 (Trees on or adjacent to Development Sites), DP17 (Art Works- Percent for Art), DP20 (Pedestrians and Cyclists), DP23 (Waste Minimisation, Separation, Collection and Recycling), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

Material to the determination of the application is the Scottish Government policy given in Scottish Planning Policy: February 2010.

It is stated in Scottish Planning Policy: February 2010 that Planning Authorities should respond to the diverse needs and locational requirements of different sectors and sizes of businesses and take a flexible approach to ensure that changing circumstances can be accommodated and new economic opportunities realised. Removing unnecessary planning barriers to business development and providing scope for expansion and growth is essential. The planning system should support economic development in all areas by:

- taking account of the economic benefits of proposed development in development plans and development management decisions,
- promoting development in sustainable locations, particularly in terms of accessibility,

- promoting regeneration and the full and appropriate use of land, buildings and infrastructure,
- supporting development which will provide new employment opportunities and enhance local competitiveness, and
- promoting the integration of employment generation opportunities with supporting infrastructure and housing development.

Planning authorities should ensure that there is a range and choice of marketable sites and locations for businesses allocated in development plans, including opportunities for mixed use development, to meet anticipated requirements and a variety of size and quality requirements. Marketable land 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. The supply of marketable sites should be regularly reviewed. New sites should be brought forward where existing allocations do not meet current and anticipated market expectations. Where identified sites are no longer considered appropriate or marketable, they should be reallocated for another use through the development plan.

A supply of effective land for at least 5 years should be maintained at all times to ensure a continuing generous supply of land for house building.

Three written representations to the application have been received, one of which objects to the proposed development. The other two written representations do not state whether they object to or support the proposed development.

A copy of each written representation is contained in a shared electronic folder to which all Members of the Council have access.

The objection is made on the grounds that the proposed vehicular access to the business part of the site is shown to be located just about directly outside a neighbouring residential property of Knowesley Park and that instead vehicular access to the business part of the site should be from the access road to the west of the site and not from Gateside Road. This would leave Gateside Road for residential access only.

Whilst supportive of the housing part of the proposed development, one of the representors raises concerns that vehicular access to the business part of the site is indicated to be taken from Gateside Road and that introducing commercial traffic to a residential area such as Gateside Road could have road safety implications. The trees on the eastern boundary of the site mean that there would be a poor line of sight for commercial traffic exiting the site onto Gateside Road. For those reasons the representor considers that vehicular access to the business part of the site should be from the access road to the west of the site and not

from Gateside Road. Some concern is raised about the visual impact of the business part of the proposed development. It is also suggested that all of the site should be developed for housing, as the representor has found no evidence of a need for the proposed business units.

The other representor raises concerns that flats may be built on the northern part of the site, adjacent to the railway walk. Concern is also raised that the proposed development may have an adverse impact on local wildlife. The representor questions what impact the development may have on public transport, and raises concern that the proposed development may impact on the signal strength to their satellite dish. It is also the representor's view that a grass area should be provided within the site to allow local children to play ball sports.

There is no evidence to suggest that the proposed development would result in the destruction of wildlife. The issue raised by the representor regarding the signal strength of their satellite dish is not a material consideration in the determination of a planning application.

Haddington Area Community Council advise that vehicular access to the business part of the site should be from the access road to the west of the site and not from Gateside Road. They also advise that the additional houses would take the number of residential units already planned to a dangerous level where overstretched infrastructure will not be able to cope. The Community Council advise that bringing social housing to an affluent area will create some serious issues that may never be resolved, house prices may also be affected. They are also concerned that any business units will not be sympathetic with any plans to enhance the town centre.

The issue raised by the Community Council regarding house prices is not a material consideration in the determination of a planning application. There is no evidence to suggest that the proposed business units would not be sympathetic with any plans to enhance the town centre.

The application site is within Haddington. It is allocated for business use by Proposal BUS6 of the adopted East Local Plan 2008. Were Proposal BUS6 to be implemented Policy BUS1 of the adopted Local Plan would come into effect. Policy BUS1 supports in principle uses within Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

The applicants confirm that the part of the application site proposed by them for business use would be used for purposes within Class 4 of the Town and Country Planning (Use Classes)(Scotland) Order 1997. The proposed business use of part of the application site is consistent with Proposal BUS6 and Policy BUS1 of the adopted East Lothian Local Plan 2008.

Residential use falls within Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Proposal BUS6 and Policy BUS1

of the adopted East Lothian Local Plan 2008 do not give any support to residential uses on any part of the application site. The housing element of the proposed development would be sited on and thus would result in the loss of land within the application site that is allocated by the Planning Authority for business and industrial use as part of an extension to Gateside Commerce Park to meet part of an identified need for business land in East Lothian to enable and sustain the economy of East Lothian and of the Lothians.

The proposed housing element of the proposed development is therefore contrary to Proposal BUS6 and Policy BUS1 of the adopted East Lothian Local Plan 2008.

Notwithstanding this, it is necessary to consider whether there are material considerations in this case that outweigh this element of development plan policy.

A material consideration in this case relates to the proposed 0.96 hectares of business land. The applicants, one of which owns the application site, propose the use of over one quarter of the site for business development, which would provide some economic development opportunities in a suitable location. The applicants confirm that if planning permission in principle for the development is to be granted, they would be willing to develop business units on that part of the site or, if this does not occur within a specified time period, transfer the title of the proposed serviced business land to the Council at no cost to the Council, with a proviso that if the Council does not then commence development of business units within a specified time, the title then revert back to the applicants. An agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 could be used to secure the transfer of ownership of the land.

The Council's Economic Development Unit has been consulted on the planning application. They consider that it would be unreasonable to lose all of the application site to residential use. However, they advise that the size and flexible layout of the proposed business land would be sufficient to meet the current known demand for business premises in the locality. They further advise that this proposal is an acceptable and pragmatic approach that would enable some of the site to be developed for business use, rather than the site remaining undeveloped.

Another material consideration relates to the need to augment the supply of effective housing land in East Lothian.

At the Cabinet meeting of the 10 December 2013, the Council agreed that East Lothian has a shortfall in its effective housing land. At that meeting the Council also approved Interim Planning Guidance against which planning applications for housing on land not allocated for that purpose will be assessed. The application site is not allocated for residential development. Therefore the approved Interim Planning

Guidance is a material consideration in the determination of this planning application.

The approved Interim Planning Guidance states that the weight the Council affords its terms, and the terms of other Development Plan policies, to individual planning applications will depend on the extent to which the proposed development is able to satisfy the following criteria:

- 1 Effectiveness;
- 2 Scale;
- 3 Timing;
- 4 Development Plan Strategy; and
- 5 Locational Considerations.

In respect of effectiveness, the applicants have confirmed that there are no physical constraints to the development of the site. Having carefully considered the applicants' submission, the Council's Policy and Projects Manager agrees that the site meets the tests of effectiveness and is free of infrastructure constraints. It can therefore be concluded that the site is effective.

The Council's Policy and Projects Manager is satisfied that the proposed housing would not be of a scale that would prejudice the Council's subsequent flexibility to consider and determine the amount and location of housing land release through the Local Development Plan process. He is also satisfied that it is not so large that it would prejudice future decisions on development plan requirements and how these would be best dealt with up to 2019 and beyond. With some 60 residential units proposed, the scale is such that the site is capable of being substantially built out within the next five years. In this regard, the site is capable of contributing towards short term housing needs.

One of the joint applicants, Persimmon Homes, is a housebuilder. They have indicated that all of the housing could be delivered by 2016/2017. There is no evidence to suggest that they would not be able to develop the site within this suggested timescale.

The Council's Policy and Projects Manager is satisfied that the proposed housing would not prejudice the delivery of the existing Development Plan strategy.

In respect of locational considerations, the approved Interim Planning Guidance states that only in the most exceptional circumstances will a housing use be supported on undeveloped land allocated for a business or industrial use under Classes 4, 5 or 6 of the Town and Country Planning (Use Classes)(Scotland) Order 1997, specifically where:

- a. the housing development provides appropriate services to unserved business/industrial land, thereby facilitating the take-up of employment land, and
- b. the delivery of housing on a part of that land does not prejudice the continued use of the remainder of the allocated area for the business/industrial use, and
- c. the housing does not in the Council's view prejudice the supply of employment land in East Lothian, and
- d. the location is in all other respects a suitable one for housing.

Additionally, where necessary, the Council will require the landowner and/or developer to enter into legal agreements to ensure these objectives are met. Unilateral obligations may also be considered.

In this case, the applicants propose to service the land indicated to be for Class 4 business use development, which would facilitate the take-up of it for employment use.

The Council's Principal Environmental Protection Officer is satisfied that a Class 4 business use of that part of the site could operate without prejudicing the residential privacy and amenity of future occupants of the proposed houses. In this regard, it can be concluded that the delivery of housing on part of the site would not prejudice use of the remainder of the site for Class 4 business use.

The Economic Development Unit has carefully considered the proposed development of the majority of the allocated business land for housing. They advise that in economic development terms the site is 'majorly constrained', as the ownership of it means that it is unlikely to be released for economic land use. They note that the site does not form part of the effective supply of economic land. In this regard, the Economic Development Unit are satisfied that the proposed housing would not prejudice the supply of employment land in East Lothian

As can be seen from the planning assessment below, the site is suitable for residential use.

On the foregoing considerations, the Council's Policy and Projects Manager is satisfied that the proposed residential part of the development complies with the criteria set out in the approved Interim Planning Guidance. Accordingly, weight should be given to the contribution that the site could make towards reducing the shortfall in the effective housing land of East Lothian.

The contribution the site could make towards the use of over one quarter of the site for business development by allowing residential use on the

larger part of the site, together with the contribution that the site could make towards reducing the shortfall in the effective housing land of East Lothian are significant material considerations. In the circumstances of this case, by delivering both economic development and housing, they outweigh the policy presumption against the element of residential development proposed in this application.

As indicatively shown the business units would be well set back from the B6471 road. In such a set back position and when viewed from the B6471 road they would be seen in relation to the buildings of the Gateside Commerce Park and would not appear as a prominent or intrusive feature harmful to the visual amenity of the area. Tree planting along the southern boundary of the application site would reduce the impact of the buildings in views of them from that public road. In principle the houses could also be satisfactorily accommodated on the remainder of the application site without harm to the visual amenity of the area.

If planning permission in principle is to be granted the details of the siting, design, external appearance and landscaping of and the means of access to the proposed development would be for the subsequent approval of the Planning Authority. It would be through the subsequent determination of such details that planning control would be exercised to ensure that its built form would be fully acceptable, and with due regard to the need to safeguard the character and appearance of this site within the western end of Haddington.

It would, however, be prudent to set design principles to control the development of the site. Amongst other things, a) the buildings should be a maximum of two storeys in height, b) other than in exceptional circumstances where the layout or particular building type does not permit, houses should be orientated to face the street, c) there should be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary street frontage, d) the layout of houses should comply with the Council's normally applied standards in respect of separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and directly facing windows, and e) the external finishes of the residential units should be in accordance with a co-ordinated scheme of materials and colours that shall respect the layout of the development and should promote render as the predominant finish to the walls of the residential units. A condition imposed on the grant of planning permission in principle can be used to secure this control.

In respect of landscape matters the Policy and Projects Manager advises that the southern half of the site is visible from the B6471 road, the gateway to Haddington from Edinburgh and the west and therefore that the layout of the southern half of the site, with its indicatively proposed business units and SUDS pond, is particularly important. He recommends that the existing line of small species trees along the

southern boundary be widened and strengthened with additional tree planting, including larger species trees such as oaks, to tie in with the surrounding sites and provide a stronger and less permeable boundary. He advises that the business units be single storey in height and be finished in muted colours to reduce their visual impact.

The Policy and Projects Manager also recommends that a tree constraints plan should be carried out for the site, which would inform the detailed layout of the site. This plan should include all existing trees on the site, detail those to be removed, mark the root protection areas for all trees to be retained in accordance with BS5837:2012 "*Trees in relation to design, demolition and construction ~ Recommendations*" and mark the location of temporary protective fencing for the retained trees. In respect of both proposed accesses he advises that regrading and tree removal will be required to facilitate these and that tree planting be carried out to either side of the entrances within the site to mitigate for the tree removal and enhance the entrance into the development.

Further to this the Policy and Projects Manager recommends that management plans for the communal open spaces, tree planting and woodland areas should be prepared and submitted at detailed application stage to ensure the future establishment and maintenance of the landscaping of the site.

In respect of open space and play provision, the Council's Principal Amenity Officer advises that the area is well enough served for formal play facilities by way of the Gateside Road play area. However, he does express concern that the general area has no flat grass area for kick about /informal play use and this proposal would add to that burden. Accordingly, he advises that the open space indicatively shown by the applicant on the north east corner of the site should be formed in such a way as to provide a minimum 65m x 45m kick about pitch that can be accessed from both this development and neighbouring sites.

However, it would not be reasonable to expect this proposal to provide for amenity/recreation needs arising from other developments. Further advice of the Principal Amenity Officer is that part of the indicatively shown area of open space in the northeast corner of the site could be used in this way.

The Council's Biodiversity Officer raises no objection to the principle of the proposed development, being satisfied that the site is of only limited biodiversity value.

In principle the site is capable of accommodating a neighbouring business and residential development without occupiers of the residential development suffering a significant loss of amenity.

The Council's Principal Environmental Protection Officer raises no objection to the principle of the proposed development. He does however

advise that there is some potential for a loss of amenity to future residents from noise or lighting associated with the proposed business units. Accordingly the Principal Environmental Protection Officer recommends that detailed noise and lighting assessments, based on the detailed layout of the site, be submitted to and approved in writing by the Planning Authority. Any identified mitigation measures should be fully implemented prior to the occupation of the first residential unit. A condition imposed on the grant of planning permission in principle can be used to secure this control.

The Scottish Environment Protection Agency initially objected to the proposals on the basis of a lack of information, however, following subsequent submissions by the applicant they have withdrawn that and now raise no objection to the principle of the proposed development. SEPA do not raise concern about any potential flood risk associated with the application site. They advise that foul drainage from the proposed development should be connected to the public foul sewer. Specification for the surface water drainage systems must comply with the SUDWP/CIRIA design manual for sustainable urban drainage.

The Council's Senior Structures Officer raises no objection to the principle of the proposed development, although he does recommend that a Flood Risk Assessment and details of any proposed SUDS are submitted to and approved by the Planning Authority. A condition imposed on the grant of planning permission in principle can be used to secure this control.

Scottish Water were consulted on the planning application but did not comment on it.

The Council's Transportation service has considered the transport assessment submitted by the applicant and agrees with the findings that traffic likely to be generated by the proposed development could be satisfactorily accommodated on the local road network and that the majority of junctions tested are expected to continue to operate within capacity. This assessment takes into account the additional traffic that could also be generated by the supermarket approved for the former Oaktree service station site and by the mixed use development of 750 houses, social and community facilities and associated infrastructure of the adjacent lands of Letham Mains the subject of Proposal H3 of the adopted East Lothian Local Plan 2008.

It is proposed by the applicant in principle that access for both residential and business parts of the site would be directly from Gateside Road and not from the narrow road to the west of the site. The Council's Transportation service advise that consideration has been given to the business part of the site being accessed directly from the narrow road to the west of the site and that this would be an acceptable means of access, although some minor widening and resurfacing works would be required to the existing road. The land which would be required to do this

is within the applicant's control. Notwithstanding this advice, Transportation advise that the proposed means of access would also be acceptable, although a new footway would be required over the full length of Gateside Road on its western side with additional crossing provisions for pedestrians. On this basis, and subject to the provision of the required new footway and additional crossing provisions, there is no good planning reason to require the applicant to access the business part of the site directly from the narrow road to the west of the site instead of from Gateside Road.

The Council's Transportation service recommends minimum visibility splays that should be provided and maintained at the proposed site access junctions with Gateside Road. These are splays of 2.5 metres by 70 metres in each direction. They also recommend that a) a vehicle track/swept path analysis is required for both parts of the site to ensure that a large design rigid vehicle can manoeuvre through both the business site and the housing site; b) the internal layouts for the business and housing areas shall be designed in accordance with the Council's Standards for Development Roads (including street lighting provision); c) Pedestrian and cycle access should be maximised throughout the site and connect to existing or future infrastructure; d) the parking provision for both the residential and business parts of the site should meet the Council's Standards for Development Roads – Parking Standards; and e) cycle parking should be provided in accordance with the Council's Standards for Development Roads. These matters can be controlled through a condition on a grant of planning permission in principle for the proposed development.

With the imposition of conditions to cover the issues raised by the Transportation service the principles of the proposed development of the site for residential and business uses do not conflict with Policies DP20, T1 and T2 of the adopted East Lothian Local Plan 2008.

Transport Scotland raises no objection to the principle of the proposed development.

The Council's Waste Services Manager raises no objection to the principle of the proposed development, being satisfied that in principle, refuse vehicles could service the housing and business parts of the site.

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

professional archaeologist should be given access to inspect and record them. Planning Advice Note 42: Archaeology similarly advises.

The Council's Assistant Archaeology Officer advises that the application site lies within an area regarded as being of potential archaeological significance. Accordingly she recommends that a programme of archaeological works should be carried out by a professional archaeologist to evaluate the site for any potential archaeological remains. This can be secured through a condition attached to a grant of planning permission for the proposed development. This approach is consistent with Scottish Planning Policy: February 2010, Planning Advice Note (PAN) 2/2011: Planning and Archaeology and with Policy ENV7 of the adopted East Lothian Local Plan 2008.

Given the scale of the proposed development and its prominent public location, it would be appropriate for artwork to be incorporated either as an integral part of the overall design of it or as a related commission to be located on the site or in an approved alternative location. This can be achieved by means of a condition on the grant of planning permission, subject to which the proposal is consistent with the requirements of Policy DP17 of the adopted East Lothian Local Plan 2008.

The Council's Executive Director (Support Services) informs that the application site is located within the school catchment areas of Haddington Infant School, Haddington Primary School and Knox Academy. He confirms that Haddington Primary School has capacity to accommodate pupils that might arise from occupation of the proposed 60 houses. However, there would be insufficient capacity at both Haddington Infant School and Knox Academy to accommodate pupils that might arise from occupation of the proposed houses. Thus he objects to the application on the grounds of lack of permanent capacity at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of £138,104 (£2,301.73 per unit) towards the provision of additional school accommodation at Haddington Infant School and Knox Academy.

This can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding necessary school capacity.

The Council's Economic Development & Strategic Investment Manager advises that in accordance with the Council's affordable housing policy,

25% of the proposed 60 houses should be affordable housing units, i.e. a total of 15 affordable housing units. They should be provided on site or if it can be demonstrated to the Council that this, or the off-site provision of 15 affordable units is not practicable, a commuted sum payment should be made to the Council in lieu of such an on or off-site provision. The terms for the provision of this affordable housing requirement should be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement the proposal is consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

In conclusion, the proposed housing is significantly contrary to Proposal BUS6 and Policy BUS1 of the adopted East Lothian Local Plan 2008. However the material considerations of securing the use of over one quarter of the site for business development together with the contribution that the site could make towards reducing the shortfall in the effective housing land of East Lothian, outweigh the policy presumption against the element of residential development proposed in this application. It is therefore recommended that planning permission in principle be granted subject to the prior conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 designed to secure the heads of terms set out in section 2 of this report and subject to the conditions set out in Appendix 1 of this report.

In accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that:

(i) without the required developer contribution for the provision of additional school accommodation at Haddington Infant School and Knox Academy, agreement on the terms of provision of the required amount of affordable housing and the development of the business land being secured by an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 the proposed development is unacceptable due to a lack of sufficient school capacity at Haddington Infant School and Knox Academy, a lack of provision of affordable housing, contrary to Policies INF3 and H4 of the adopted East Lothian Local Plan 2008, and due to the loss of all of the allocated business land that is part of the business land supply of Haddington to the detriment of East Lothian's economy and the greater Lothian economy, contrary to Proposal BUS6 and Policy BUS1 of the adopted East Lothian Local Plan 2008 and contrary to the Council's Interim Planning Guidance.

4 POLICY IMPLICATIONS

4.1 None.

5 EQUALITIES IMPACT ASSESSMENT

5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

6.1 Financial - None

6.2 Personnel - None

6.3 Other - None

7 BACKGROUND PAPERS

7.1 Adopted East Lothian Local Plan 2008

7.3 Approved South East Scotland Strategic Development Plan (SESplan)

7.4 Scottish Planning Policy: February 2010

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APPENDIX 1

- 1 The submission for approval of matters specified in conditions of this grant of planning permission in principle in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) shall include details of the siting, design and external appearance of the residential units and the business units, the means of access to them, the means of any enclosure of the boundaries of the site and the landscaping of the site; and those details shall generally accord with the Indicative Master Plan and Masterplan Document docketed to this planning permission in principle, as informed and modified by a tree constraints plan for the site in accordance with BS5837:2012 "*Trees in relation to design, demolition and construction ~ Recommendations*", and shall address the following requirements:
 - a. The houses shall in no case be higher than two storeys in height.
 - b. Other than in exceptional circumstances where the layout or particular building type does not permit, houses should be orientated to face the street.
 - c. Notwithstanding that shown in the Indicative Site Layout Plan docketed to this planning permission in principle there shall be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary street frontage.
 - d. The external finishes of the residential units shall be in accordance with a co-ordinated scheme of materials and colours that shall respect the layout of the development and shall promote render as the predominant finish to the walls of the residential units.
 - e. There shall be at least 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 or proposed neighbouring residential properties.
 - f. Parking for both the business and the housing development hereby approved shall be provided at a rate as set out in the Council's Standards for Development Roads – Parking Standards.
 - g. A continuous 2 metre wide footway shall be provided along the full eastern boundary of the site from the junction of Gateside Road with the B6471 road, up to and including the existing Toucan Crossing (i.e. signal controlled crossing at railway walk) on Gateside Road.

h. At least two sets of dropped kerb pedestrian crossings shall be provided over Gateside Road to enable all pedestrians to cross the road at appropriate locations. These shall be provided on the southern side of the proposed residential access (but to the north of Knowesley Park). An additional crossing shall be provided to the south of the proposed business access.

i. Cycle parking shall be provided in accordance with the East Lothian Council's Standards for Development Roads.

j. Visibility splays of 2.5 metres by 70 metres shall be provided and maintained at the site access to both the residential and business sites. No obstruction shall lie within the splays above a height of 1.05 metres above the adjacent carriageway surface.

k. The internal layouts for the business and housing areas shall be designed in accordance with East Lothian Council's Standards for Development Roads. (including street lighting provision) and the internal layout for the housing area shall accord with the Council's Design Standards for New Housing Areas. They shall also be designed with due regard to a vehicle track/swept path analysis, which shall be undertaken for both sites to ensure that the large design rigid can manoeuvre through both the business site and the housing site. For the avoidance of doubt the dimensions of this vehicle is 2.5m wide and has a 6.1m wheelbase within an overall vehicle length of 10m.

l. Pedestrian and cycle access shall be maximised throughout the site and connect to existing or future infrastructure.

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment.

2. No more than 60 residential units are approved by this grant of planning permission in principle.

Reason:

To ensure that there is sufficient education capacity.

3. No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of: the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include:

a. a tree constraints plan for the site to include all existing trees on the site, details those to be removed, the root protection areas for all trees to be retained in accordance with BS5837:2012 "*Trees in relation to design, demolition and construction ~ Recommendations*" and the location of temporary protective fencing for the retained trees and with details of tree protection measures during construction;

b. additional tree planting, including larger species trees such as oaks, to the existing line of small species trees along the southern boundary and to tie in with the site boundaries.;

c. tree planting to either side of the vehicular accesses to the site to mitigate for the tree removal and enhance the entrance into the development;

d. a management plan for the communal open spaces, tree planting and woodland areas to ensure the future establishment and maintenance of the site.

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

Reason:

In order to protect trees on the development site and ensure the implementation of a landscaping scheme to enhance the appearance of the development, in the interests of the amenity of the area.

- 4 A consultants report to include assessments of: (i) noise and lighting associated with use of the proposed business units and of any impact of such noise and lighting on the housing development of the remainder of the site; and (ii) any mitigation measures considered necessary to achieve satisfactory levels of amenity for the occupiers of a residential development of the site shall be submitted to and approved by the Planning Authority prior to the commencement of development. Any identified mitigation measures shall be fully undertaken prior to the occupation of any residential unit built on the site.

Reason:

To ensure that the future occupants of any of the residential units benefit from a satisfactory level of amenity.

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

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 6 No residential or business unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority. The details shall include a timetable for the provision of the artwork. The artwork shall thereafter be provided in accordance with the details so approved.

Reason:

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

- 7 Details of the proposed integrated sustainable urban drainage scheme (SUDS) for the application site shall be submitted to and approved in writing by the Planning Authority.

The integrated sustainable urban drainage scheme (SUDS) for the application site shall thereafter be fully implemented in accordance with the details so approved.

Reason:

To ensure the provision of a satisfactory sustainable urban drainage scheme for the application site.