

PLANNING COMMITTEE
TUESDAY 4 NOVEMBER 2014

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

**TUESDAY 19 AUGUST 2014
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 T Day
Councillor A Forrest
Councillor J Gillies
Councillor J Goodfellow
Councillor D Grant
Councillor W Innes
Councillor P MacKenzie
Councillor K McLeod
Councillor J McMillan
Councillor J McNeil
Councillor T Trotter
Councillor J Williamson

Council Officials Present:

Mr K Dingwall, Principal Planner
Ms C Molloy, Senior Solicitor
Mr M Greenshields, Transportation Planning Officer

Clerk:

Miss F Currie, Committees Assistant

Apologies:

Councillor S Brown
Councillor J Caldwell

Declarations of Interest:

None

The Convenor welcomed everyone to this additional meeting of the Planning Committee convened to consider one urgent application. He advised Members that Standing Orders prevented the Committee from considering anything other than the item of business for which the additional meeting had been convened, which he considered unfortunate, as there were a number of other items which could have been added to the agenda.

1. MINUTE OF THE MEETING OF THE PLANNING COMMITTEE OF 3 JUNE 2014

The minute of the Planning Committee of 3 June 2014 was approved.

2. PLANNING APPLICATION NO. 14/00263/AMM: APPLICATION FOR MATTERS SPECIFIED IN CONDITIONS 1 AND 2 OF PLANNING PERMISSION IN PRINCIPLE 09/00486/OUT – ERECTION OF 82 HOUSES AND ASSOCIATED WORKS AT HALLHILL, DUNBAR

A report was submitted in relation to Planning Application No. 14/00263/AMM. Keith Dingwall, Principal Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

In response to questions from Members Mr Dingwall advised that there would be 3 potential access points to the site – approved as part of the previous planning permission – all of which would be in place before any of the houses were occupied. These would involve an upgraded junction with the A1 and improvements to both access points on Brodie Road and Beveridge Row.

Councillor Currie welcomed this important housing development but expressed his frustration at the pace of progress. He acknowledged the concerns about access but noted that these would be addressed before the first houses were occupied. He would be supporting the application.

Councillor Berry supported the views of his colleague; however he considered it unfortunate that there were no civic facilities planned as part of the development. He would be supporting the application.

The Convenor brought the discussion to a close. He welcomed this development in an area where demand for housing was high. He hoped that it would lead to further opportunities for provision of affordable housing. He would be supporting the recommendation to grant planning permission as set out in the report.

The Convenor moved to the vote on the report recommendation:

For: 16

Against: 0

Abstentions: 0

Decision

The Committee agreed to grant approval of matters specified in conditions for the proposed housing development subject to the following conditions:

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

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

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

Reason:

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

- 2 A detailed specification of all external finishes of the houses of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail respect the layout of the development and shall promote render as the predominant finish to the walls of the houses. All such materials used in the construction of the houses shall conform to the details so approved.

Reason:

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

- 3 Prior to the commencement of development details of the position and type of all boundary enclosures to be erected on the application site shall be submitted to and approved in advance by the Planning Authority. Development shall thereafter be carried out in full accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory appearance of the fencing in the interest of safeguarding the visual amenity of the area and to safeguard the privacy and amenity of residential properties nearby.

- 4 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 of landscaping shall be based on the 'Hallhill Landscape Strategy', which is docketed to planning permission in principle 09/00486/OUT. It shall also show specimen tree planting within the areas of open space adjacent to the two SUDS ponds and the area of open space to the north of plots 132 and 161 of the proposed housing development. The scheme shall also include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

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

Reason:

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

- 5 Prior to the occupation of the last house approved, the proposed access roads, parking spaces, and footpaths shall have been constructed on site, in accordance with the docketed drawings and the transportation conditions specified below. Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in

connection with the residential use of the houses and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

To ensure that adequate and satisfactory provision is made for access and for off-street parking in the interests of road safety.

- 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 Prior to the commencement of development, details showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

(i) vehicle accesses to private parking areas (i.e. other than driveways) being via a reinforced footway crossing and shall have adequate width to enable two way movement of vehicles at the accesses;

(ii) in accordance with the phasing plans docketed to planning permission in principle 09/00486/OUT, the new off-site pedestrian/cycle routes through the woodland of Lochend Woods to the north east of the site should be constructed, lit and available for use prior to the occupation of any of the 81 houses;

(iii) all footpaths and cycle paths from a zone under construction to their connections to existing pedestrian/cycle routes should be constructed to an adoptable standard before the occupation of any of the residential units of the particular zone;

(iv) driveways shall have minimum dimensions of 6 metres by 2.5 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length;

(v) within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings; and

(vi) all prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay.

The housing development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road and pedestrian safety.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

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

**TUESDAY 2 SEPTEMBER 2014
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor D Berry (Items 1 – 5)
Provost L Broun-Lindsay
Councillor S Brown
Councillor J Caldwell
Councillor S Currie
Councillor T Day
Councillor A Forrest
Councillor J Gillies
Councillor J Goodfellow
Councillor D Grant
Councillor W Innes (Items 1 – 5)
Councillor P MacKenzie (Items 1 – 4 and 6)
Councillor J McMillan
Councillor J McNeil
Councillor T Trotter (Items 1 – 3)
Councillor J Williamson

Other Councillors Present:

Councillor M Veitch (Item 2)

Council Officials Present:

Mr D Proudfoot, Head of Development
Ms M Ferguson, Service Manager – Legal and Procurement
Mr I McFarlane, Service Manager – Planning
Mr K Dingwall, Principal Planner
Ms C Molloy, Senior Solicitor
Mr M Greenshields, Transportation Planning Officer
Mr N Millar, Planner

Clerk:

Ms F Currie, Committees Assistant

Visitors Present:

Item 1 – Mr S Allan
Item 1 – Mr D Jones
Item 1 – Ms V Hastie

Item 1 – Mr T Wood
Item 2 – Mr A Muckley
Item 2 – Mr G Barton
Item 3 – Mr C Sinclair
Item 3 – Mr J Dobie
Item 3 – Mr D Scott
Item 4 – Mr N Craigmile
Item 4 – Mr A Bowman
Item 4 – Mrs R Johnstone
Item 4 – Mr D Johnstone
Item 5 – Mr S Kerr
Item 5 – Mr J Campbell QC
Item 6 – Mr A Watt

Apologies:

Councillor K McLeod

Declarations of Interest:

Councillor MacKenzie declared an interest as a member of the Battle of Prestonpans Heritage Trust and indicated he would leave the Chamber during Item 5.

1. PLANNING APPLICATION NO. 14/00416/P: CHANGE OF USE OF OFFICE BUILDING AND GROUNDS TO CREMATORIUM USE WITH 1 GROUNDKEEPER'S FLAT AND ASSOCIATED OPERATIONS AT ALDERSTON HOUSE, HADDINGTON

A report was submitted in relation to Planning Application No. 14/00416/P. Iain McFarlane, the Service Manager - Planning, presented the report, summarising the key points. He referred to a number of late representations which had been tabled and indicated that, in the view of the Case Officer, the matters raised were not material to consideration of this application. The proposed decision set out in the report was to grant consent for the application.

In response to questions from Members Mr McFarlane advised that the reference to 200 yards in the Crematoriums Act 1902 related to the construction of a building for use as a crematorium. He confirmed that planning consent would not override the legal requirement for the applicant to seek approval from adjacent landowners, nor would it affect the landowner's right to withhold their permission where this requirement existed.

Marshall Greenshields, Transportation Planning Officer, answered questions from Members on traffic management issues.

Mr Scott Francis Allan, agent for the applicant, addressed the Committee. He reminded Members of the previous planning permission for a crematorium in this location which was granted in 1998. He advised that there had been departures from the 1902 Act to allow developments in cities and further amendments to the legislation may follow. He also confirmed that a Traffic Management Plan would be put in place for the site.

Mr David Jones, of DPJ Planning & Development, spoke against the application on behalf of Mr & Mrs Dalton and Mr & Mrs Health, owners of properties adjacent to Alderston House. He stated that his clients had serious concerns about the proximity of the proposed crematorium and the impact on their health, welfare and the amenity

of their properties. He advised Members that, in terms of the requirements of the 1902 Act, neither couple would give their consent to the proposed development.

Ms Vivian Hastie, owner of Alderston Farming, spoke against the application. She told Members that the emissions from a crematorium could potentially be detrimental to the health and value of her milk herd and the success of her business. Ms Hastie contended that Members had a duty to consider the impact on the local area, residents and businesses, and should reject the application.

Mr Tim Wood, Chief Executive of McInroy & Wood Ltd, spoke against the application. He explained that his firm employs 48 people and is a contributor to the local economy and good causes. He was concerned about the impact which a crematorium, and increased traffic, would have on the ambiance and amenity of his business. He considered the proposals to be a risk to the future of his firm.

Local Member Councillor Trotter explained that he had called this application in due to the number of concerns raised by local residents. While he was not against the idea of a new crematorium he was not convinced that this was the right location.

Local Member Councillor McMillan agreed with his colleague. He considered that the impact of the proposals, particularly in regard to parking, would result in a loss of amenity for neighbouring properties and a potential risk to jobs. He would not be supporting the report recommendation.

Local Member Provost Broun-Lindsay also agreed, pointing out that the planned operations verged on industrial use. He would not be supporting this application.

Councillor Berry acknowledged that this was a difficult decision and that transport was a major issue. He agreed with the views of his colleagues and would not be supporting this application.

Councillor Innes cited the residential locations of two of Edinburgh's crematoria and the current pressure on burial plots in East Lothian. He would be supporting the report recommendation.

Councillor Currie indicated that his major concern was transportation: specifically the impact on safety and traffic flow. He would not be supporting the report recommendation.

Councillor McNeil noted the previous planning permission granted for the nearby site. He would be supporting the report recommendation.

Councillor Goodfellow was not convinced that the traffic management plan would be sufficient for the site. He would not be supporting the report recommendation.

Councillor Grant agreed with the views of Councillor Innes. He was confident that the traffic management plan would address any concerns and he would be supporting the application.

Councillor Caldwell asked whether the conditions could be amended to ensure there was at least one and a half hours between each service and associated catering, rather than only one hour. This may help to address traffic and amenity issues. He would be willing to support the application on this basis.

The Convener brought the discussion to a close. He noted the opposing views of Members around traffic management and welfare and amenity concerns. He agreed with Councillor Caldwell's view and proposed an amendment to Condition 4 stating that there shall be at least one and a half hours between each service and associated catering. Councillor Caldwell seconded this motion.

The Convener moved to the vote on the report recommendation, as amended:

For: 9

Against: 8

Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to the following amended conditions:

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

Reason:

To ensure the crematorium use of does not harm the amenity of nearby residential properties.

- 2 The crematorium hereby approved shall only operate between 8:00am and 5:00pm Monday to Friday and 8:00am and 1:00pm on a Saturday.

Reason:

To safeguard the amenity of the area, including the amenity of neighbouring residential properties.

- 3 There shall be no scattering of cremation ashes on any part of the application site and any ashes to be interred shall be located in the Memorial Garden as shown on the drawings docketed to this planning permission and shall be contained within a fully sealed container.

Additionally there shall be no depositing of metallic cremation waste on any part of the application site.

Reason:

To safeguard the amenity of the area.

- 4 At the crematorium hereby approved there shall be least a one and a half hour gap between the end of one cremation service and the beginning of the next, the service including any reception held on the premises.

Reason:

To allow an adequate turnover of vehicles in the interests of road safety.

- 5 Prior to the commencement of the crematorium use hereby approved a traffic management plan to control and marshal traffic and overspill parking resulting from larger attendances of cremations shall be submitted to and approved in advance by the Planning Authority. The approved traffic management plan shall thereafter be implemented in accordance with the details so approved.

Reason:

In the interests of road safety.

- 6 The second floor groundkeeper's staff living accommodation hereby approved shall be occupied and used only by a member(s) of staff of the crematorium hereby approved, and shall not be used as a separate dwelling unit.

Reason:

To restrict the use of that part of the building to that applied for as the accommodation is unsuitable for unrestricted residential occupancy.

2. PLANNING APPLICATION NO. 13/00975/PP: PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF 1 HOUSE AT THE FORMER DAIRY COTTAGE, 14 SOUTH BELTON, DUNBAR

A report was submitted in relation to Planning Application No. 13/00975/PP. Mr McFarlane presented the report, summarising the key points. The proposed decision set out in the report was for refusal of the application.

In response to questions from Members Mr McFarlane advised that planning policy DC1 made no specific provision for replacement buildings and the applicant had failed to demonstrate the operational need for a replacement on this site.

Mr Albert Muckley of Ironside Farrar, agent for the applicant, addressed the Committee. He explained that the monitoring of water levels was done currently by electronic equipment and by visual monitoring onsite. However the lease on the current accommodation was due to end soon and there was a clear operational need for a replacement. He stated that, without someone onsite, the potential risk of flooding would be increased.

Mr George Barton spoke in support of the application. He advised Members that electronic water level monitoring could not be used in isolation and visual monitoring was a vital backup tool. He noted that, despite support for the use of dual monitoring in this case, planning officers had chosen to ignore the advice of the experts.

Local Member Councillor Veitch said that while he supported planning policy DC1, he considered that the case for operational need had been clearly demonstrated. He was surprised that officers had chosen to ignore the overwhelming advice in support of this application and urged Members to go against the report recommendation.

The Convenor, speaking as a local Member, noted that the independent rural consultant was in favour of this development and considered that such expert advice should not be ignored.

Councillor Innes agreed with local Members and did not think that approving this application would set an unhelpful precedent. He would not be supporting the report recommendation.

Councillor Goodfellow also supported the views of local Members. He would not be supporting the report recommendation.

Provost Broun-Lindsay stated that, contrary to previous applications of this type, the business case had been clearly made and he would be supporting the application.

Councillor MacKenzie was persuaded by the views of the independent rural consultant in this case. He would be supporting the application.

Councillor McMillan was in agreement with his colleagues. He would be supporting the application.

Councillor Grant was concerned about the precedent which might be set by approving this application. He would be supporting the report recommendation.

The Convener brought the discussion to a close. He referred to his earlier comments and stated that he would be supporting this application.

The Convener moved to the vote on the report recommendation:

For: 1
Against: 16
Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to conditions to be determined by officers in conjunction with the Convener, including an occupancy restriction on the property to be constructed to be secured by means of a S75 Agreement.

3. PLANNING APPLICATION NO. 14/00440/P: CHANGE OF USE FROM OPEN SPACE TO CAR PARKING AREA AND ERECTION OF BOLLARDS AT 13 HOPETOUN TERRACE, GULLANE

A report was submitted in relation to Planning Application No. 14/00440/P. Neil Millar, Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent for the application, subject to refusal of permission in respect of the two southwest most bollards.

In response to questions from Members, Mr McFarlane advised that the felling of trees in a conservation area would require the written permission of the Council. Morag Ferguson, Service Manager – Legal & Procurement, advised Members that the legal rights of access were not material to consideration of planning permission and would require being resolved between the parties separately.

Mr Colin Sinclair, the agent for and son of the applicant, addressed the Committee. He explained that the current agreement for mutual access to neighbouring properties had been put in place prior to the Sinclair's purchase of their property. This had been exacerbated by blocking of the proper access by tree planting, which had led to neighbours crossing the Sinclair's land to access their own properties. As a result, two of Mr Sinclair's cars had been damaged in the last two years and a number of potholes had formed. The erection of bollards would prevent further access across their property and allow the garden area to be restored to its former state.

Mr J Dobie, local resident, spoke against the application. He confirmed that the arrangements for mutual access had been agreed some time ago by neighbours. He was concerned about the positioning of the bollards as this was not clear from the planning application.

Mr David Scott, another local resident, spoke against the application. Despite a reduction in the number of bollards, he did not think that there would be room for maintenance or emergency vehicles to access the rear of his property.

Local Member Councillor Goodfellow acknowledged that this was a contentious application which had required a site visit to fully appreciate the issues. He noted that granting planning permission would restrict access for neighbouring residents and he would not be supporting the report recommendation.

Local Member Councillor Day considered that the proposals would adversely affect the amenity of the conservation area by virtue of the visual impact of the bollards. He would not be supporting this application.

Councillor Berry was concerned that this application appeared to be part of a wider neighbourhood dispute. He did not see any planning justification for the proposals and would not be supporting the application.

Councillor Currie commented that approval of this application would not resolve the issues in this case. He would not be supporting the report recommendation.

Provost Broun-Lindsay had some sympathy with the views of the applicant. He would be supporting the report recommendation.

Councillor Grant indicated that, on balance, he would be supporting the report recommendation.

The Convener brought the discussion to a close. He acknowledged that the legal issues around access rights were not a matter for Members and that planning officers had tried to achieve limited impact by restricting the number of bollards. He would be supporting the recommendation to grant planning permission as set out in the report.

The Convener moved to the vote on the report recommendation:

For: 6
Against: 11
Abstentions: 0

Decision

The Committee agreed to refuse planning permission for the following reasons:

- (i) the visual impact of the bollards would be detrimental to the character of the conservation area.

Sederunt: Councillor Trotter left the meeting.

4. PLANNING APPLICATION NO. 14/00319/P: ERECTION OF FENCING AND HEIGHTENING OF WALL (PART RETROSPECTIVE) AT 6 WINTON TERRACE, NEW WINTON, TRANENT

A report was submitted in relation to Planning Application No. 14/00319/P. Mr McFarlane presented the report, summarising the key points. The proposed decision set out in the report was to grant consent for the application.

In response to questions from Members Mr McFarlane advised that officers take into account both the applicant's house and the local area when considering a proposal to alter the height of garden fencing.

Mr Neil Craigmile, the applicant, addressed the Committee. He explained that he had been required to replace rotting fence posts earlier in the year and was now looking to renew several sections of fencing to secure the side and bottom of the garden for his dog.

Mr Alistair Bowman, a solicitor advising the applicant on planning matters, spoke in favour of the application. He said he had examined the deeds to the applicant's property and was satisfied that the fence was entirely on his land.

Mrs Ruth Johnstone, neighbouring resident, spoke against the application. She stated that the high section of the side fence ruined the amenity of the conservation area, as well as "fencing her off" from the rest of the Terrace. She concluded that it was not in keeping with this or other conservation villages.

Mr Dougal Johnstone, neighbouring resident, spoke against the application. He expressed his concern about officers' failure to address his objections in their report. He said that the high sections of the fence spoiled the character of the streetscape and the amenity of his property.

Local Member Councillor Grant had some sympathy with the objectors' views regarding the fence to the front of the property. However, he would be supporting the report recommendation.

Local Member Councillor Gillies considered that the fence was out of character with the area but he would not go against the officer's recommendation.

Councillor Innes also had sympathy with the objectors' views. He suggested that the high fence should be restricted to the building line to the front of the property. He would not be supporting the report recommendation.

Councillor McNeil stated that he was uncomfortable with the idea of such a high fence in a conservation area, and where the previous fence had been considerably lower. He would not be supporting the report recommendation.

Provost Broun-Lindsay agreed that the high panels to the front were intrusive. He would not be supporting this application.

The Convener brought the discussion to a close. He agreed with the views of Members and objectors. He proposed that the panels which protruded past the building line to the front of the property be restricted to a height of 1 metre. This was seconded by Provost Broun-Lindsay.

The Convener moved to the vote on the report recommendations, as amended:

For: 13
Against: 3
Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to the following amended conditions:

- 1 The stonework of the heightened section of wall shall match in all respects the stonework of the existing wall that encloses the northeast roadside boundary of the property 5 Winton Terrace, including the laying, pointing and coping of it, all in accordance with a sample panel to be provided on site for the prior inspection and approval of the Planning Authority.

Reason:

To safeguard the character and appearance of the Conservation Area.

- 2 The postholes for the posts of the fencing hereby approved shall be hand dug within the tree root protection area of the tree on the southwest rear garden boundary and adjacent to the southwest rear garden boundary of the house. The posts shall be positioned to avoid tree roots exceeding 25mm in diameter. If roots exceeding 25mm in diameter are encountered the excavation shall be backfilled and lightly compacted immediately and another hole dug. Any tree roots 25mm in diameter and smaller encountered shall be cleanly cut prior to installing the support posts.

Reason:

In the interests of safeguarding trees that form part of the landscape character of the Conservation Area.

- 3 The north-easternmost part of the 1.99 metres high timber fence erected along part of the southeast boundary of the garden of 6 Winton Terrace, as shown on the drawings docketed to this planning permission, is not hereby approved. Within one month of the grant of this planning permission that fence shall instead be reduced in height, such that no part of it that is greater than 1 metre in height (when measured from ground level) shall protrude forward of the front (north-east facing) building line of the house of 6 Winton Terrace towards the road of Winton Terrace, all in accordance with a detail of it to be submitted for the prior approval of the Planning Authority.

Reason:

In the interests of safeguarding the character and appearance of the Conservation Area and the amenity of neighbouring residential properties.

Sederunt: Councillor MacKenzie left the Chamber.

5. PLANNING APPLICATION NO. 14/00456/PPM: PLANNING PERMISSION IN PRINCIPLE FOR THE CONSTRUCTION, OPERATION AND DECOMMISSIONING OF AN ONSHORE SUBSTATION, ELECTRICITY CABLES AND ASSOCIATED INFRASTRUCTURE REQUIRED TO EXPORT ELECTRICITY FROM THE PROPOSED INCH CAPE OFFSHORE WIND FARM TO THE NATIONAL ELECTRICITY TRANSMISSION SYSTEM AT LAND ADJACENT TO COCKENZIE POWER STATION, COCKENZIE, PRESTONPANS, EAST LOTHIAN

A report was submitted in relation to Planning Application No. 14/00456/PPM. Keith Dingwall, Principal Planner, presented the report, summarising the key points. He noted that, at the time of preparing the report, there had been three representations received. A further three had been received all relating to the impact on the historic battlefield site. One of these was from the Battlefields Trust. Mr Dingwall indicated that none of the new objections altered the report recommendation which was to grant consent for the application.

In response to questions from Members Mr Dingwall advised that the application was for approval in principle and much of the detail was still to be determined. However, he confirmed that, as result of consultation, none of the proposed development would encroach onto the Waggonway.

Mr Stephen Kerr of InchCape Offshore Ltd, the applicant, addressed the Committee. He advised Members that there had been a wide local consultation on the proposals with over 400 people attending 3 local meetings. Amendments to the location and footprint of the site, and mitigation measures, had been put in place to address concerns. He reiterated that this was the first stage and his firm were committed to ongoing public consultation at all stages of the process.

In response to questions from Members, Mr Kerr advised that, at maximum output, the facility would provide 20% of Scotland's domestic energy requirements, and that the project was not linked to any other proposals for the area.

Mr John Campbell QC, on behalf of The Battle of Prestonpans Heritage Trust and the Coastal Regeneration Alliance, spoke against the application. He expressed concern that the transforming electrical infrastructure would be sited on the Battle of Prestonpans Battlefield. He stated that the public required further information and consultation on the proposals. He referred to planning policy and questioned whether the development met the "key operational requirement" criteria. He proposed that Members agree to defer the application for a period of at least two months to allow further consultation to take place.

In response to further questions from Members Mr McFarlane advised that Condition 7 of the proposed planning permission stipulated that an archaeological survey must be undertaken before any development could take place on the site.

Local Member Councillor Innes noted that the battlefield site was considered to be of national significance. However, he did not think that approval of the application would compromise the protection of the site. He would be supporting the report recommendation.

Local Member Councillor Brown said he would be in favour of deferring the application to allow a comprehensive plan to be put in place for all of the proposed developments in the Cockenzie area.

Councillor Currie stated that the key issue for him was the location of the site and the potential impact on the historic battlefield site. In the absence of a deferral, he would not be supporting this application.

Councillor Grant reminded his colleagues that the application was for permission in principle and that further details would be forthcoming. He considered that supporting the report recommendation was the right thing to do.

The Convener brought the discussion to a close. He noted the divergence of opinions but reminded Members of the potential importance of this development and the requirement for an archaeological investigation before work could begin. He indicated that he would be supporting the recommendation to grant planning permission in principle as set out in the report.

Councillor Brown proposed a motion to defer the application which was seconded by Councillor Currie. The Convener invited Members to vote on this motion:

For: 3
Against: 11
Abstentions: 1

Following refusal of the motion to defer the application, the Convener moved to the vote on the report recommendation:

For: 12
Against: 3
Abstentions: 0

Decision

The Committee agreed to grant planning permission in principle subject to the following conditions:

- 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 onshore substation, electricity cables and associated infrastructure, 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 "Inch Cape Onshore Transmission Works" drawing docketed to this planning permission in principle, and shall address the following requirements:

- a. The switchgear building shall be finished in a matt green colour;
- b. The railway track within the application site boundary shall be retained and kept available for use; and
- c. The access shall be designed to ensure that it does not encroach upon the railway track or interfere with its use for rail freight.

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment, and in the interest of the promotion of sustainable modes of transportation.

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

Reason:

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

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

Reason:

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

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

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

Reason:

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

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

- a) A Method Statement detailing and controlling access routes to and from the site for large components and day-to-day deliveries/removals associated with the construction and decommissioning phases of the development. The Method Statement shall include a detailed swept path assessment of large component delivery routes, as well as frequencies and times of deliveries and arrangements for the removal of materials/plant from the site. The Method Statement shall also include details of any off-site mitigation works;

- b) Details of access and management for the onshore cabling works including the potential for traffic management on Edinburgh Road;

- c) Details of proposed alterations to the existing vehicular access onto the B6371/B1361 (Coal Store access) for large component deliveries, this shall also include the reinstatement of the access once works are completed;
- d) Wheel washing facilities shall be provided and maintained in working order during the period of construction and/or decommissioning of the site. All vehicles shall use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle wheels; and
- e) A Green Travel Plan to include measures to minimise dependency on the private car to and from the construction compounds.

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

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

Reason:
In the interests of road safety.

- 6 Prior to the commencement of development, a programme for monitoring the condition of the public roads in the vicinity of the application site, prior to and immediately following the completion of the development, shall be submitted to and approved in writing by the Planning Authority. The public roads to be monitored shall be (i) the B1361/B6371, from the roundabout junction of the A198 at Meadowmill (just north of the railway) northwards to the B1348 Edinburgh Road; and (ii) the B1348, Edinburgh Road, along the full Power Station site frontage and access junctions from the junction East Lorimer Place to Appin Drive (Traffic signals).

Thereafter the approved programme of monitoring shall be implemented. Any remedial works shown by the monitoring as arising from the construction of the development, shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:
To ensure that damage to the public road network resulting from the proposed development is rectified.

- 7 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.

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

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

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

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

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

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

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

Reason:

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

- 9 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 operation of the onshore substation.

Reason:

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

- 10 Prior to the commencement of development, intrusive site investigations shall be undertaken in order to establish the exact situation regarding coal mining legacy issues on the site.

In the event that the site investigations confirm the need for remedial works to treat the mine entries and areas of shallow mine workings to ensure the safety and stability of the proposed development, then any such remedial works shall be undertaken prior to the commencement of development.

Reason:

To ensure that the site is suitable for development, as the application site has been subject to previous coal mining activity.

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

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

Reason:

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

- 12 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.

- 13 The design and construction of the substation shall be such that noise associated with the operation of the substation shall not exceed a boundary noise threshold limit of 49 dB(A) at any time.

Reason:

To safeguard the amenity of nearby residential properties.

Sederunt: Councillor MacKenzie returned to the Chamber and Councillor Innes and Councillor Berry left the meeting.

6. PLANNING APPLICATION NO. 14/00151/PM: VARIATION OF CONDITIONS TO ALLOW THE OCCUPANCY OF STATIC AND TOURING CARAVANS FOR 46 WEEKS OF EACH YEAR (CONDITION 8 OF OUTLINE PLANNING PERMISSION T/1143/90, CONDITION 5 OF P/1143/90, CONDITION 5 OF PLANNING PERMISSION P/0674/91, CONDITION 4 OF PLANNING PERMISSION P/0557/92, CONDITION 4 OF PLANNING PERMISSION P/0558/92, CONDITION 5 OF PLANNING PERMISSION P/0102/94, CONDITION 3 OF PLANNING PERMISSION P/0223/94, CONDITION 4 OF PLANNING PERMISSION 99/00688/FUL, CONDITION 2 OF PLANNING PERMISSION 04/00007/FUL AND CONDITION 2 OF PLANNING PERMISSION 09/00441/FUL) THURSTON MANOR CARAVAN PARK

A report was submitted in relation to Planning Application No. 14/00151/PM. Mr McFarlane presented the report, summarising the key points. The report recommendation was to grant consent for the application.

Mr Andrew Watt, a neighbouring landowner, spoke against the application. He stated that the previous restrictions on opening times had been put in place to ensure the site was not used for residential purposes. He also pointed out that some of the conditions of the previous planning permission, such as screen planting and secure fencing, had not been adhered to or enforced.

Councillor Currie said he was confident that the proposed conditions would still ensure that the site was not used for residential purposes. In the meantime, he encouraged Mr Watt discuss his concerns with enforcement officers. He would be supporting the report recommendation.

The Convener brought the discussion to a close. He agreed with Councillor Currie's comments and indicated that he would be supporting the recommendation for variation of the conditions as set out in the report.

The Convener moved to the vote on the report recommendation:

For: 14

Against: 0

Abstentions: 0

Decision

The Committee agreed to variation in the conditions of previous planning permissions as outlined below:

- 1 Condition 8 of outline planning permission T/1143/90:

No static caravan shall be occupied during a 6 weeks period starting from the day after the New Year bank holiday period each year.

Reason:

To ensure that static caravans are not used as permanent residential accommodation and in the interests of the amenity of the area.

- 2 Condition 5 of planning permission P/1143/90:

No static caravan shall be occupied during a 6 weeks period starting from the day after the New Year bank holiday period each year; and no touring caravan shall remain on site for a period which exceeds 6 weeks in the time period during which occupancy of the static caravans is permitted, nor remain on site during a 6 weeks period starting from the day after the New Year bank holiday period each year.

Reason:

To ensure that caravans are not used as permanent residential accommodation; and to ensure that stances are regularly available for use by touring caravans and in the interests of the amenity of the area.

- 3 Condition 5 of planning permission P/0674/91:

No static caravan shall be occupied during a 6 weeks period starting from the day after the New Year bank holiday period each year.

Reason:

To ensure that static caravans are not used as permanent residential accommodation and in the interests of the amenity of the area.

- 4 Condition 4 of planning permission P/0557/92:

No static caravan shall be occupied during a 6 weeks period starting from the day after the New Year bank holiday period each year.

Reason:

To ensure that static caravans are not used as permanent residential accommodation and in the interests of the amenity of the area.

- 5 Condition 4 of planning permission P/0558/92:

No static caravan shall be occupied during a 6 weeks period starting from the day after the New Year bank holiday period each year.

Reason:

To ensure that static caravans are not used as permanent residential accommodation and in the interests of the amenity of the area.

- 6 Condition 5 of planning permission P/0102/94:

No touring caravan shall be on site during a 6 weeks period starting from the day after the New Year bank holiday period each year and outwith this period no touring caravan shall remain on site for a period which exceeds 6 weeks.

Reason:

To ensure that caravans are not used as permanent residential accommodation; and to ensure that stances are regularly available for use by touring caravans and in the interests of the amenity of the area.

- 7 Condition 3 of planning permission P/0223/94:

No static caravan shall be occupied during a 6 weeks period starting from the day after the New Year bank holiday period each year.

Reason:

To ensure that static caravans are not used as permanent residential accommodation and in the interests of the amenity of the area.

8 Condition 4 of planning permission 99/00688/FUL:

No static caravan shall be occupied during a 6 weeks period starting from the day after the New Year bank holiday period each year.

Reason:

To ensure that static caravans are not used as permanent residential accommodation and in the interests of the amenity of the area.

9 Condition 2 of planning permission 04/00007/FUL:

No static caravan shall be occupied during a 6 weeks period starting from the day after the New Year bank holiday period each year.

Reason:

To ensure that static caravans are not used as permanent residential accommodation and in the interests of the amenity of the area.

10 Condition 2 of planning permission 09/00441/FUL:

No static caravan shall be occupied during a 6 weeks period starting from the day after the New Year bank holiday period each year.

Reason:

To ensure that static caravans are not used as permanent residential accommodation and in the interests of the amenity of the area.

Signed

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Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee
MEETING DATE: Tuesday 4 November 2014
BY: Depute Chief Executive
(Partnership and Community Services)
SUBJECT: Application for Planning Permission for Consideration

2

Application No. **14/00431/PPM**

Proposal Planning Permission in Principle for residential development and associated works

Location **Land At Limeylands Road
Ormiston
East Lothian**

Applicant Dr David Slight and Barratt David Wilson Homes

Per Clarendon Planning and Development Limited

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

As the area of the application site is greater than 2 hectares and the principle of development is for more than 50 houses, the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation. The application is therefore brought before the Planning Committee for a decision.

As a statutory requirement of major development type proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 13/00005/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 136 people attended the pre-application public exhibition, which was held at Ormiston Community Centre on 9 October 2013, 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.

This application relates to some 8 hectares of agricultural land which forms the western part of a larger area of agricultural land on the north side of Limeylands Road, on the northwestern edge of Ormiston.

The site is bounded to the north by scrubland, to the east by the remainder of the larger area of agricultural land of which the site is a part, to the south by residential properties of George Crescent and a length of Limeylands Road, and to the west by a pedestrian track.

In January 2014 planning permission in principle (ref: 14/00034/PPM) was sought for a residential development of the application site. That application was withdrawn prior to it being determined.

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

An indicative development framework plan has been submitted with the application indicating how some 120 residential units could be accommodated on the application site. It is also indicated that a bowling green and SUDS pond be accommodated on the eastern part of the site and that a landscaped buffer would be planted on part of the western and along the whole length of the eastern and northern boundaries of the site.

The indicative development framework plan indicates that access to the site could be taken from Limeylands Road.

The application is also supported by an archaeology assessment, landscape and visual impact assessment, planning supporting statement, design statement, design and access statement, ecology assessment, transport assessment, flood risk assessment, tree survey, engineering report, coal mining risk assessment report and education capacity report.

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 14 February 2014 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 5 (Housing Land) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP1 (Landscape and Streetscape Character), NH5 (Protected Trees), DP12 (Trees on or Adjacent to Development Sites), DP17 (Art Works-Percent for Art), INF3 (Infrastructure and Facilities

Provision), H4 (Affordable Housing), ENV7 (Scheduled Monuments and Archaeological Sites), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Also material to the determination of the application is Scottish Planning Policy: June 2014. Paragraph 110 of Scottish Planning Policy states that the planning system should identify a generous supply of land for each housing market area within the plan area to support the achievement of the housing land requirement across all tenures, maintaining at least a 5 year supply of effective housing land at all times.

At its Cabinet meeting of 10 December 2013, the Council agreed that East Lothian has a shortfall in its effective housing land supply. At that meeting the Council also approved Interim Planning Guidance against which planning applications for housing on land not allocated for housing development 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.

A total of seven written objections have been received in respect of this application. The main grounds of objection are;

- * the proposed development would have a harmful visual impact and would be detrimental to Ormiston;
- * local infrastructure would be adversely affected and could not cope;
- * the existing school and health centre in Ormiston are already at full capacity and cannot accommodate the development;
- * impacts on sewerage and drainage and possible flooding;
- * there could be issues with past mining works in the area;
- * an increase in traffic as a result of the proposed development would be a road and pedestrian safety hazard and would also lead to increased noise and disturbance;
- * the public transport is poor;
- * there is little in the way of shops and there is no high school;
- * there has been a lack of strategic site assessment;
- * the proposed development would lead to a loss of amenity through overlooking and loss of light to neighbouring properties; and
- * the proposed development would lead to a decrease in neighbouring property values.

The effect of a proposed development on property values is not a material consideration in the determination of a planning application.

Ormiston Community Council, as a consultee on the application, state that the environmental impact to Ormiston would be unacceptable. The current road infrastructure, especially along Limeylands Road, would fail to cope with the increase in traffic resulting from the additional housing. The substantial increase in traffic would

create unacceptable wear and tear on the roads and road safety could be compromised as on street parking effectively narrows the road. The primary school is at near capacity with only limited room for expansion and it will not be possible to accommodate places within the school that would be generated from the proposed 120 houses. Given the current status of the proposed site as arable farmland, a change to a housing development will have a negative impact on the existing flora and fauna in the area. Not only would the proposed development impact on transportation, education provision, amenity and local services in Ormiston but would also have a knock on affect in Tranent (such as the Ross High School and the transportation infrastructure, including Tranent High Street). There is also a concern on the lack of information on the community recreation use aspect of this project. In conclusion Ormiston Community Council respectfully request that planning permission be refused.

If planning permission in principle were to be granted, the details of the siting, design and external appearance of the proposed houses, the landscaping of the site and the means of access to the proposed development would require the subsequent approval of the Planning Authority. Through the subsequent determination of such details, planning control would be exercised to ensure that the built form of the development would be fully acceptable, with due regard to the need to safeguard the character and appearance of this site outwith the northwestern edge of Ormiston.

In respect of open space and play provision, the Council's Principal Amenity Officer advises that the area of open space indicatively shown to be provided would be set out in such a way as to provide a sufficient area of opens space for informal recreation for a proposed development of 120 units. Regarding formal play provision, the Principal Amenity Officer advises that there is sufficient play area provision in Ormiston as there are already 3 established sites with another secured to be provided within a new housing development to the south. The Principal Amenity Officer recommends that a small toddler play area be provided on the application site and an enhancement made to the capacity of the main village facility in Ormiston Park. However as he advises that there is already sufficient play area provision in Ormiston including to provide for this development it would therefore be unreasonable in planning terms to require this proposal to provide a further equipped play area.

The Council's Roads Services has considered the transport assessment and road safety audit submitted by the applicant and advises that traffic likely to be generated by the proposed development could be satisfactorily accommodated on the local road network. Roads Services do however raise concern that traffic likely to be generated by the proposed development could lead to extra pressure on traffic flows at Tranent High Street and the Dolphingstone Interchange. However Roads Services has not provided any evidence at this time to demonstrate that would indeed be the case.

Roads Services recommend that:

- * the existing 30 miles per hour (mph) speed limit be extended 200m to the west on Limeylands Road and include village entry treatments;
- * the vehicular access junction into the site be taken from the position shown on the application drawings and incorporate the findings of the submitted Stage 1 safety audit completed by Stewart Paton Associates in April 2014;
- * the traffic calming provided along Limeylands Road be extended along the site frontage;
- * a visibility splay of 2.5m by 70m to the east and 2.5m by 44m to the west be provided and maintained at the proposed site access junction with Limeylands Road so that no

obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface;

- * street lighting be extended to the new 30mph extents;
- * a continuous 2 metre wide footway be provided on the south side of Limeylands Road to the east to link into the existing footway network, with dropped kerbs provided as necessary;
- * a raised table crossing be provided over Limeylands Road to provide pedestrian access to the new development from the southern footway;
- * parking for the proposed residential elements of the development be provided at a rate as set out in the East Lothian Council Standards for Development Roads – Part 5 Parking Standards;
- * all access roads conform to East Lothian Council Standards for Development Roads in relation to roads layout and construction, footways & footpaths, parking layout and number, street lighting and traffic calming measures;
- * vehicle accesses to private parking areas (i.e. other than driveways) be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;
- * driveways have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;
- * within residential private parking areas the minimum dimensions of a single parking space be 2.5 metres by 5 metres. All visitor parking spaces within these areas be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;
- * a Green Travel Plan (GTP) be submitted and approved in consultation with Roads Services. It should have particular regard to provision for walking, cycling and public transport access to and within the site, and will identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan;
- * a Construction Method Statement to minimise the impact of construction activity on the public road network be submitted to and approved by the Planning Authority prior to the commencement of development. It should recommend mitigation measures to control construction traffic and include hours of construction work; and
- * wheel washing facilities be provided and maintained in working order during the period of operation of the site.

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

In respect of landscape matters the Council's Policy and Projects service advises that there are a number of trees along the southern boundary of the application site with Limeylands Road that are subject to a tree preservation order. The advice is that these

trees are important to the visual amenity of the area and some should be protected and retained. Policy and Projects accept the loss of some poor specimen trees on the southern boundary of the site subject to replacement planting to compensate. They also recommended that a detailed landscape planting plan should be submitted to and approved in advance by the Planning Authority, which should include additional tree planting along the northeast boundary of the site. These recommendations could be made conditions of a grant of planning permission in principle.

The Council's Environmental Protection Manager raises no objection to the principle of housing development of the application site. She does, however, advise that there is the possibility of contamination of the soils on the site. Consequently she recommends that prior to the commencement of development on the site, a comprehensive contaminated land investigation be carried out and a report submitted to and approved in advance by the Planning Authority with a subsequent remedial strategy submitted if required. This could be made a condition of a grant of planning permission in principle.

It is stated in Scottish Planning Policy that archaeological sites and monuments are an important finite and non-renewable resource and should be protected and preserved in situ wherever feasible. The presence and potential presence of archaeological assets should be considered by planning authorities when making decisions on planning applications. Where preservation in situ is not possible planning authorities should through the use of conditions or a legal agreement ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development. If archaeological discoveries are made during any development, a professional archaeologist should be given access to inspect and record them. Planning Advice Note 2/2011: Planning and Archaeology similarly advises. As stipulated in Policy ENV7 of the adopted East Lothian Local Plan 2008, new development that would harm a site of archaeological interest or its setting will not be permitted.

The Council's Archaeology Officer advises that the application site would be situated in an area of known archaeological remains. Because of this the Archaeology Officer recommends that a programme of archaeological works be carried out prior to the commencement of development. This could be secured through a condition attached to a grant of planning permission in principle. This approach is consistent with Scottish Planning Policy: February 2010 and Planning Advice Note 2/2011: Planning and Archaeology.

The Scottish Environment Protection Agency (SEPA) raise no objection to the principle of the proposed development, being satisfied that it could be carried out without unacceptable risk of flooding and without increasing the risk of flooding elsewhere in the area.

Scottish Water have made no comment on the application.

As the application site is within a Coal Mining Development Referral Area the Coal Authority have been consulted on the application. A Coal Mining Risk Assessment Report has been submitted with the application. The Coal Authority advise that the submitted report correctly identifies that coal mining activity is recorded to have taken place beneath the application site and thus the report recommends intrusive site investigation works be undertaken to confirm coal mining conditions and to enable the implementation of any necessary mitigation measures prior to commencement of the development.

The Coal Authority recommends that should planning permission in principle be granted that the intrusive investigation works recommended within the Coal Mining Risk Assessment Report be undertaken prior to the commencement of development and that in

the event that the site investigations confirm the need for remedial works to treat any areas of shallow mine workings, development shall not begin until a scheme of remedial works on the site has been submitted to and approved in writing by the Planning Authority. This can be required by a condition of a grant of planning permission in principle.

The Council's Economic Development & Strategic Investment Manager advises that a grant of planning permission in principle would require to be subject to provision of 25% of all housing units to be developed as affordable housing, through mechanisms to be agreed with the developer. The terms for the provision of this affordable housing requirement could 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, which the applicant's agent confirm the applicant is willing to do, the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

Policy INF3 of the adopted East Lothian Local Plan 2008 stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This includes funding necessary school capacity.

The Council's Depute Chief Executive (Resources and People Services) informs that the application site is located within the school catchment areas of Ormiston Primary School and Ross High School.

He advises that Ormiston Primary School does not have sufficient capacity to accommodate children that could arise from the proposed development. He advises that Ormiston Primary School has a notional capacity of 203 pupils with eight classrooms and is currently within a constrained site. With the children that could arise from the proposed development, the Deputy Chief Executive (Resources and People Services) advises the school will require two additional classrooms which cannot be accommodated within the constrained school site and he therefore objects to the application.

As there is not, and would not be, sufficient capacity at Ormiston Primary School to accommodate children that could arise from the proposed development, it is contrary to Policy INF3 of the adopted East Lothian Local Plan 2008.

Notwithstanding these technical considerations, the primary material consideration in the determination of this application is whether or not the principle of the proposed housing development accords with development plan policy and other supplementary planning guidance and if not, whether there are material considerations that outweigh any conflict with the development plan and other supplementary planning guidance.

The land of the application site is defined by Policy DC1 of the adopted East Lothian Local Plan 2008 as being part of the countryside of East Lothian.

The adopted Local Plan does not allocate the land of the application site for residential development.

The principle of new build housing development on the application site must therefore be assessed against national, strategic and local planning policy relating to the control of new build housing development in the countryside.

Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008 sets out the circumstances in which new housing outwith settlements may be appropriate, particularly

in rural areas. It only allows for new build housing development in the countryside where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use. The new build housing development proposed in this application is not necessary for agriculture, horticulture, forestry operations or countryside recreation and is therefore contrary to Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008.

However, the South East Scotland Strategic Development Plan (SESplan) requires that Policy DC1 be considered in the context of the current housing land supply.

Scottish Ministers have approved SESplan subject to supplementary guidance on housing targets for each member local authority. That supplementary guidance is now approved by Ministers with a modification required in terms of calculating the housing land supply

Policy 7 of SESplan requires planning authorities in the SESplan area to maintain a five years effective housing land supply at all times. It also requires developments to be in keeping with the character of the settlement and local area and requires that any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

East Lothian Council has agreed that East Lothian has a shortfall in its effective housing land supply. In respect of this the Council approved its Housing Land Supply: Interim Planning Guidance against which planning applications for housing on land not allocated for that purpose will be assessed.

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 criteria 1; effectiveness, the applicants' agent has confirmed that there are no physical constraints to the development of the site and that the landowner of the site has an agreement with Barratt David Wilson Homes to jointly fund and promote the housing site, meaning in these respects it can be considered to be physically and financially capable of achieving early delivery.

In respect of criteria 2; scale, the proposed housing development of 120 residential units would be below the Guidance threshold of 200 units and would be of a scale broadly in keeping with the scale and character of Ormiston.

In respect of criteria 3; timing, one of the joint applicants, Barratt David Wilson Homes, is a housebuilder. They have indicated that housing completions could be delivered by 2015. There is no evidence to suggest that they would not be able to develop the site within this suggested timescale.

In respect of criteria 4; development plan strategy, it is considered that the proposed housing would not prejudice the delivery of the existing Development Plan strategy because it would not compromise the ability to provide infrastructure to existing housing land allocations that do not yet have planning permission or are committed but have not yet started, and is not be dependent on the prior provision of infrastructure required by existing housing land allocations that do not yet have planning permission or are committed but have not yet started.

In respect of criteria 5; locational considerations, the application site is at the north edges of Ormiston and therefore in this respect partially satisfies part of criteria 5 in that it would form an extension of an existing settlement as defined in the adopted East Lothian Local Plan 2008.

As Ormiston lies outwith the East Lothian Strategic Development Area the proposed development also has to be assessed against the tests as set out in part (ii) of criteria 5 as well as the provisos set out in part (i) of criteria 5.

Criteria 5(i) sets out the following provisos where development may be acceptable, specifically where,

(a) the site is a consolidation of or an appropriate extension to an existing settlement identified in the East Lothian Local Plan 2008, and its scale and nature is in keeping with the scale and character of that settlement and the local area, and

(b) infrastructure is available or can be made available within a timescale that allows for early house completions, and

(c) the site's development for housing is consistent with all other relevant Development Plan policies.

In regard to this the proposed development meets proviso 5(i)(a) in that the scale of the proposed development is broadly in keeping with the scale and character of Ormiston.

In regard to part 5(i)(b) and 5(i)(c) the constrained school site of Ormiston Primary School is such that infrastructure in the form of education provision cannot be provided for it. As recorded above the Council's Depute Chief Executive (Resources and People Services) advises there is not, and would not be, sufficient capacity at Ormiston Primary School to accommodate children that could arise from the proposed development, nor scope to provide that capacity within the school site, contrary to Policy INF3 of the adopted East Lothian Local Plan 2008. Given this, the application site cannot be taken to be immediately effective or capable of being made so within an appropriate timescale. As such the land of the application site is not demonstrably able to deliver early house completions and therefore cannot support the effective housing land supply in the short term. The site's development for housing as proposed is contrary to Local Plan Policy INF3.

Therefore on this consideration the housing development of the application site is also contrary to the Council's Housing Land Supply: Interim Planning Guidance.

Criteria 5(ii) sets out the further provisos where development may be acceptable, specifically,

(a) where the settlement is well served by public transport,

(b) existing facilities and services are both available and accessible such that the need to

travel is minimised, and

(c) the extent to which the additional housing would help make a demonstrable and necessary contribution to sustaining or improving educational, social or community facility provision within the local area may.

In terms of part 5(ii)(a) the application site is within 400m of bus stops on Limeylands Road, with a reasonable service to Edinburgh via Tranent and Musselburgh. The site is also close to national cycle route 126, allowing for active travel and recreation.

In terms of part 5(ii)(b) and (c) there are a reasonable range of services available in Ormiston including a primary school, library, a new medical practice with pharmacy and local shops which are within walkable distance of the application site. Thus some degree of housing development could in principle sustain or improve educational, social or community facility provision within the local area.

In respect of part (iii) of criteria 5 the proposed development would not be on land allocated for another specific use.

In respect of part (iv) of criteria 5 the proposed development, given it would form an extension of the existing settlement of Ormiston, it would be compatible with adjoining or nearby existing uses.

Part (v) of criteria 5 states that a proposed housing use must be contained within robust, defensible boundaries and must not set a precedent for subsequent future expansion, the principle of which would be more appropriately considered through a development plan review.

The application site is bounded on its west, north and south sides by woodland/scrubland and existing housing respectively. These are robust and defensible boundaries which would serve to contain the proposed development along these aforementioned boundaries. However the east side of the application site is bounded by further agricultural land with no robust, defensible boundary in place between the application site and this further agricultural land. Although the indicative development framework plan submitted with the application indicates how a landscaped buffer could be planted on the eastern boundary of the application site, this would take many years to establish and thus cannot be taken to provide a robust boundary enclosure in the short to medium term. Moreover, it is clear from the pre-application consultation report submitted with the application that there is stated interest in developing the eastern part of the larger area of agricultural land of which the application site is a part, and the adjacent field to the east.

On consideration of the above, the eastern part of the application site is clearly not contained within a robust, defensible boundary.

Accordingly, a grant of planning permission in principle would set a real precedent for subsequent future expansion to the east and thus along the whole north side of Ormiston. Such scale of development would be more appropriately considered through the local development plan process. Approval of the residential development proposed for the site could prejudice that process.

With the lack of a defensible boundary to the east and the setting of a precedent for future eastern expansion, the proposed housing development 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.

Thus on these forgoing considerations the principle of a housing development of the application site is contrary to the Council's Housing Land Supply: Interim Planning Guidance.

In conclusion there are no material considerations which outweigh the primary material considerations that the new build housing development proposed in principle in this application is contrary to Policy INF3 of the adopted East Lothian Local Plan 2008 and the Council's Housing Land Supply: Interim Planning Guidance on two counts.

RECOMMENDATION:

That planning permission in principle be refused for the following reasons:

- 1 There is not, and there would not be, sufficient capacity at Ormiston Primary School to accommodate children that could arise from the occupancy of the proposed new build housing development, contrary to the requirements of Policy INF3 of the adopted East Lothian Local Plan 2008.
- 2 The new build residential development proposed in principle in this application is contrary to part 5 of the Council's Housing Land Supply: Interim Planning Guidance on the following considerations:
 - (i) the eastern boundary of the application site is not contained within a robust, defensible boundary and as such the residential development of the application site would set a real precedent for subsequent future expansion to the east and thus along the whole north side of Ormiston, the principle of which should be considered through the Local Development Plan process;
 - (ii) in respect of lack of education capacity the application site is not immediately effective or capable of being so, is not demonstrably able to deliver early house completions and therefore cannot support the effective housing land supply in the short term; and
 - (iii) in respect of lack of education capacity it is contrary to other development plan policies.

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

REPORT TO: Planning Committee
MEETING DATE: Tuesday 4 November 2014
BY: Depute Chief Executive
(Partnership and Communities Services)
SUBJECT: Application for Planning Permission for Consideration

3

Application No. **14/00757/PM**

Proposal Variation of condition 1C of planning permission in principle
06/00770/OUT to extend the time period for a further 3 years

Location **Tesco Stores Limited**
Mall Avenue
Musselburgh
East Lothian
EH21 7TS

Applicant Dundas Estates & Development Co. Ltd.

Per Manson Architects

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

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

Planning permission in principle (Ref: 06/00770/OUT) was granted in September 2008 for a mixed use development on some 8.8 hectares of land located close to Musselburgh Town Centre which at the time of determination of application 06/00770/OUT included land of the former Brunton Wire Works, land of the then Tesco supermarket, and the bus depot that is operated by First Bus. When granted the planning permission in principle included for a retail store, residential development of up to 140 residential units, a primary health care centre, a care home for the elderly (including a day centre and associated specialist housing with support) and associated access roads and car parking.

The masterplan docketed to planning permission in principle 06/00770/OUT shows: (i) most of the southern part of the land of the then Tesco supermarket designated for development as a care home and the remainder of that land for residential development,

(ii) the land adjacent to Musselburgh Bowling Club designated for development as a primary health care centre, (iii) a reconfiguration of the parking area of the flatted properties at the junction of Mall Avenue and Inveresk Road, and (iv) the remainder of the application site designated for development as a retail superstore. Planning permission in principle 06/00770/OUT does not allow for any change to the established use of the bus depot.

Condition 1 of planning permission in principle 06/00770/OUT states that:

(a) Before development commences written approval from the planning authority must be obtained for the details of the siting, design and external appearance of any building(s), means of access and the landscaping (collectively these are termed "reserved matters").

(b) Plans and particulars of the reserved matters referred to in (a) above shall be submitted for consideration by the planning authority and no work shall begin until the written approval of the authority has been given.

(c) Application for the approval of reserved matters shall be made to the planning authority within 3 years from the date of this permission.

(d) The development hereby permitted shall commence within 5 years from the date of this permission, or within 2 years from the date of approval by the planning authority of the last of the reserved matters to be approved.

Reason:

Pursuant to Section 59 of the Town and Country Planning (Scotland) Act 1997.

In September 2008 planning permission (Ref: 06/00769/FUL) was granted to Tesco Stores Limited for the erection of a retail superstore, a petrol filling station, automated teller machine pod, car parking, and pedestrian and vehicular accesses on land approved in principle for such development by planning permission in principle 06/00770/OUT. Planning permission 06/00769/FUL has been implemented, that part of the site of planning permission in principle 06/00770/OUT has thus been developed and the Tesco retail superstore is trading.

In January 2010 approval of matters specified in conditions 09/00500/REM was granted for the erection of a primary care centre on the land designated for it in the masterplan and approved in principle for such development by planning permission in principle 06/00770/OUT. Approval of matters specified in conditions 09/00500/REM has been implemented, that part of the site of planning permission in principle 06/00770/OUT has thus been developed and the primary care centre is in operation.

In December 2011 planning permission (Ref: 11/00827/PM) was granted for the variation of Condition 1 of planning permission in principle 06/00770/OUT. The approved variation extends the lifetime of the permission by another 3 years (i.e. until the 25 September 2014) to enable submission of details of a residential and care home development of the still undeveloped part of the site the subject of planning permission in principle 06/00770/OUT and which are designated in the masterplan for such development.

To date, no detailed proposals have been brought forward for a residential and care home development of the remainder of the land the subject of planning permission in principle 06/00770/OUT (i.e. the land of the former Tesco supermarket).

Through this current application planning permission is now sought for a further variation of Condition 1 of planning permission in principle 06/00770/OUT. The proposed variation

would extend the lifetime of the permission by another 3 years (i.e. until the 25 September 2017) to enable submission of details of a residential and care home development of the still undeveloped part of the site the subject of planning permission in principle 06/00770/OUT and which are designated in the masterplan for such development.

In an email submitted in respect of the application, the applicant informs that residential development has been delayed due to uncertainties with the housing market associated with the 'credit crunch' and the general downturn in the economy. The applicant does however consider that the economy is slowly beginning to recover and in tandem the housing market and house prices are improving again. It is on this basis that the applicant is seeking to extend the period of time by a further three years for the making of application(s) for the approval of reserved matters in respect of the residential development and the care home.

Given that this application is seeking only to vary Condition 1 of planning permission in principle 06/00770/OUT, all other conditions imposed on the grant of planning permission in principle 06/00770/OUT, including the conditional control on limiting the residential development to no more than 140 residential units, would otherwise remain unaltered and in force.

An agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 also remains in place, including provisions for the delivery of developer contributions for education and affordable housing.

The principle of residential and care home development of the mixed use development the subject of planning permission in principle 06/00770/OUT is consistent with relevant strategic and local planning policy, which is now Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies BUS4 (Bruntons Site, Musselburgh), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

To extend the time period of planning permission in principle 06/00770/OUT by a further three years would not prejudice the integrity of that grant of planning permission in principle.

RECOMMENDATION

That planning permission be granted for a variation to Condition 1 of planning permission in principle 06/00770/OUT to extend the time period given in part (c) by a further 3 years to 9 years:

1 Condition 1

(a) Before development commences written approval from the planning authority must be obtained for the details of the siting, design and external appearance of any building(s), means of access and the landscaping (collectively these are termed "reserved matters").

(b) Plans and particulars of the reserved matters referred to in (a) above shall be submitted for consideration by the planning authority and no work shall begin until the written approval of the authority has been given.

(c) Application for the approval of reserved matters shall be made to the planning authority within 9 years from the date of this permission.

(d) The development hereby permitted shall commence within 5 years from the date of this permission, or within 2 years from the date of approval by the planning authority of the last of the reserved matters to be approved.

Reason:

Pursuant to Section 59 of the Town and Country Planning (Scotland) Act 1997.