

PLANNING COMMITTEE

2 DECEMBER 2014

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

**TUESDAY 28 OCTOBER 2014
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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Committee Members Present:

Councillor N Hampshire (Convener)
Councillor S Akhtar
Councillor D Berry
Provost L Broun-Lindsay
Councillor J Caldwell
Councillor S Currie
Councillor T Day
Councillor A Forrest
Councillor J Gillies
Councillor J Goodfellow
Councillor D Grant
Councillor W Innes
Councillor M Libberton
Councillor F McAllister
Councillor P MacKenzie
Councillor P McLennan
Councillor K McLeod
Councillor J McMillan
Councillor T Trotter
Councillor M Veitch

Council Officials Present:

Mr D Proudfoot, Acting Head of Development
Mr I McFarlane, Service Manager – Planning
Ms M Ferguson, Service Manager – Legal and Procurement
Ms E Wilson, Service Manager – Economic Development and Strategic Investment
Mr D Irving, Acting Senior Planner
Ms C Molloy, Senior Solicitor
Mr M Greenshields, Transportation Planning Officer

Clerk:

Ms A Smith

Visitors Present:

Mr C McPherson, Manse LLP

Apologies:

Councillor S Brown
Councillor J McNeil
Councillor J Williamson

Declarations of Interest:

None

1. PRE-DETERMINATION HEARING: PLANNING APPLICATION NO. 14/00219/PM – PLANNING PERMISSION FOR ERECTION OF 112 HOUSES, INDUSTRIAL UNITS (CLASS 4 USE), PUB/RESTAURANT AND ASSOCIATED WORKS ON LAND AT THE FORMER GATESIDE COMMERCE PARK, HADDINGTON

The Convener reminded Members of the pre-determination hearing procedure.

The Service Manager for Planning, Iain McFarlane, presented the report, providing a brief outline of the development proposal and summaries of the development plan policies and other material considerations, consultation responses and public representations. The full planning assessment would be provided to Members at the determination stage at the Council meeting.

Mr McFarlane advised that since the report had been finalised the applicant had submitted revised phasing plans for 5 years, was originally 4 years, in response to comments from the Depute Chief Executive (Resources and People Services) regarding education provision at Haddington Infant School. Following assessment of this, the Depute Chief Executive confirmed that if this longer phasing was adhered to he would be prepared to withdraw his objection subject to developer contributions of £572.32 per housing unit (£59,050) for Haddington Infant School, whilst for Knox Academy the required contribution for additional capacity would be £1,970 per unit (£220,640). On the basis of this condition the Depute Chief Executive would withdraw his objection if the Committee was minded to grant permission and if phasing was made a condition of the planning permission and the financial contributions were the subject to a Section 75 Agreement.

He informed Members of a further revision. Road Services indicated, in relation to the signalisation of the junction at Gateside and Letham Mains, that the financial contribution required from the applicant would be £30,000; again, this would be the subject of a Section 75 Agreement.

Mr McFarlane responded to questions from Councillor Berry regarding distance from Gateside to the Infant School and alternative commercial land. He referred to safe routes to school as confirmed by Transportation. He advised that commercial land availability was very limited; the Economic Development and Strategic Investment Service had expressed concern about the application, as detailed in the report and objected to the proposal.

Mr McPherson, Development Director of Manse LLP, site co-owners, informed Members that this application proposed a mixed-use development of 112 houses, 25% of which would be affordable (28 units), a pub/restaurant and 14 business units, all of which could provide 100 new jobs over the next 2/3 years. The current buildings on this site had been vacant for many years due to lack of demand for this size/type of building, in this location. The application was recommended for refusal however the education issue had now been addressed. He outlined 4 key points:

1 Refusal of this application would not mean retention of the existing buildings, they were vacant and obsolete – a demolition warrant had been granted and the buildings would soon be removed.

2 In relation to setting a precedent, given that planning permission for the adjacent sites, both east and west, had already been granted, this application was following rather than setting a precedent. This former commerce park was the preferred site for development and the proposal would provide greater employment space.

3 The recommendation for refusal referred to Interim Planning Guidance tests regarding land supply, stating the desirability of securing housing did not outweigh the need for land for economic purposes. Contrary to statements in the report, the applicants believed the proposal did meet all the relevant criteria.

4 Given the brownfield nature of the site, this was the only site in Haddington that had existing sewerage capacity and could deliver housing and employment opportunities in the next 2/3 years.

In conclusion, this proposal would provide the opportunity for much needed new housing and new employment infrastructure, tailored to local demands. It would allow development on an otherwise stagnating site. If approved, construction would begin in early 2015. Dialogue was ongoing with a potential pub/restaurant owner. It was very important to initiate development at this side of Haddington.

Members questioned Mr McPherson on a number of aspects of the application, particularly employment opportunities, the demand for a pub/restaurant and viability/deliverability of the industrial units.

The Convener reiterated that the application would be determined at the Council meeting which would follow this pre-determination hearing.

Signed

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Councillor Norman Hampshire
Convener of the Planning Committee



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

**TUESDAY 4 NOVEMBER 2014
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor D Berry
Provost L Broun-Lindsay
Councillor S Brown
Councillor J Caldwell
Councillor S Currie
Councillor T Day
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 J Williamson

Council Officials Present:

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 D Irving, Acting Senior Planner
Mr G Talac, Transportation Planning Officer
Ms P Bristow, Communications Officer

Clerk:

Ms A Smith

Visitors Present:

Item 2 – Mr A Duthie
Item 3 – Mr M Andrews

Apologies:

Councillor A Forrest
Councillor T Trotter

Declarations of Interest:

None

1. MINUTES OF THE MEETINGS OF THE PLANNING COMMITTEE OF 19 AUGUST 2014 AND 2 SEPTEMBER 2014

The minutes of the meetings of the Planning Committee of 19 August 2014 and 2 September 2014 were approved.

2. PLANNING APPLICATION 14/00431/PPM: PLANNING PERMISSION IN PRINCIPLE FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED WORKS AT LAND AT LIMEYLANDS ROAD, ORMISTON

A report was submitted in relation to Planning Application No. 14/00431/PPM. Daryth Irving, Acting Senior Planner, presented the report. He indicated that since the Depute Chief Executive's response regarding education capacity and finalisation of the report, the applicant's agent had put forward several suggestions to address the issue of lack of education capacity – a) phasing could be carried out over 5 years; b) school pupils could be bussed to nearby schools and c) the development could be restricted to 70 units. He informed Members that these suggestions were incompetent, unsustainable or unreasonable. The application had been assessed against the Council's approved Interim Planning Guidance with the conclusion that the new build proposal was contrary to part 5 of this guidance. The report recommendation was for refusal of the application.

Grant Talac, Transportation Planning Officer, responded to questions from Councillor Berry about the green travel plan recommended by Road Services and several other traffic matters including issues regarding the Ormiston/Tranent junction.

The Convener indicated that the agent was present if Members had any questions.

In response to a question from Councillor Currie, Antony Duthie of Clarendon Planning and Development Limited advised that the idea for a bowling green had come from the public consultation exercise.

Local Member Councillor Grant referred to the Interim Planning Guidance, approved in December 2013, specifically to the 5 criteria that had to be met as detailed in the report. He noted that this application appeared to meet the first 4 criteria but not the 5th. In relation to the eastern part of the site it was clear that this was not contained within a robust or defensible boundary. Regarding the educational issue he agreed with the statement in the report that the Ormiston Primary School site was constrained. He also agreed that granting this application would set a precedent for the north side of Ormiston. He would be supporting the report recommendation to refuse the application.

Local Member Councillor McLeod supported his colleague's comments. He agreed with the officer's recommendation to refuse the application.

Local Member Councillor Gillies agreed with both colleagues, he would be supporting the report recommendation.

Councillor Day agreed with the local members. He stated that to retain the public's confidence in the planning system Members had to adhere to the Interim Planning Guidance. He made reference to the lack of education capacity and absence of a

robust, defensible boundary at the eastern end of the site. He supported the officer's recommendation.

Councillor Currie also referred to the criteria within the Interim Planning Guidance, querying whether there was a slight risk in refusing the application given that the first 4 criteria seemed acceptable and only criteria 5 was not. However the educational capacity was the crucial point and for this reason he would be supporting the report recommendation.

Councillor Berry agreed with his colleagues' comments. Referring to previous applications and to infrastructure issues in general, he stated that the Council had to think more strategically and not view developments in isolation. He would be supporting the officer's recommendation.

The Convener brought the discussion to a close, expressing agreement with colleagues. He moved to the vote on the report recommendation:

For: 16

Against: 0

Abstentions: 0

Decision

The Committee agreed to refuse planning permission 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.
3. **PLANNING APPLICATION 14/00757/PM: VARIATION OF CONDITION 1C OF PLANNING PERMISSION IN PRINCIPLE 06/00770/OUT TO EXTEND THE TIME PERIOD FOR A FURTHER 3 YEARS AT TESCO STORES LIMITED, MALL AVENUE, MUSSELBURGH**

A report was submitted in relation to Planning Application No. 14/00757/PM. Keith Dingwall, Principal Planner, presented the report. The report recommendation was to grant consent.

Mr Dingwall responded to questions from Councillor Currie in relation to ownership of the undeveloped part of the site and related queries regarding the care home development application. With regard to further questions about the affordable housing element he advised this would be clarified post meeting.

The Convener advised that the applicant was present if there were any questions.

In response to a question from Councillor Currie, Mike Andrews, of Dundas Estates and Development Company, confirmed that the expectation, if approval was granted, would be for the reserved matters application to be brought forward next year.

Local Member Councillor Currie indicated that a care home development was desperately needed in Musselburgh. He would be supporting the recommendation to grant consent and hoped that the facility would be built soon.

Local Member Councillor Caldwell supported his colleague's comments. The site was in a very poor state at present so he welcomed the application.

Local Member Councillor Grant also supported comments made by colleagues. Musselburgh was in urgent need of a day care centre and care home, as referenced by the Shadow Health and Social Care Partnership Board. He supported the report recommendation.

The Convener moved to the vote on the report recommendation:

For: 16
Against: 0
Abstentions: 0

Decision

The Committee agreed to grant planning permission 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.

Signed
Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee
MEETING DATE: Tuesday 2 December 2014
BY: Depute Chief Executive
(Partnership and Community Services)
SUBJECT: Application for Planning Permission for Consideration

2

Application No. **14/00530/AMM**

Proposal Approval of Matters Specified in Conditions of Planning Permission in Principle 12/00199/PPM - Erection of 89 houses and associated works

Location **Land Located To The West Of Aberlady Road
Haddington
East Lothian**

Applicant Bett Homes

Per Roy Mitchell Design Limited

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

Although this application is for the approval of matters specified in conditions of planning permission in principle 12/00199/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the number of dwellings detailed is greater than 50. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

The application site consists of 6.3 hectares of land immediately to the north of Haddington. It is located immediately to the west of Aberlady Road (the A6137 road). The site consists of agricultural land. The agricultural land slopes down, from north to south.

The site is roughly rectangular in shape. To the north of it is the dual carriageway of the A1 trunk road, beyond which is agricultural land. The adjacent length of the A1 trunk road is at a lower level than the land of the application site. To the east of it is the A6137 road, beyond which is a field access and PepperCraig Quarry Industrial Estate. To the south of the site are the residential properties of Haldane Avenue and to the west of it is the Links Veterinary Clinic and a 25 metres wide strip of countryside land, beyond which is the access road which leads from the A199 road to Alderston House, Alderston

Coachhouse, Alderston Mains Farm, an office development and some other properties.

In April 2013 planning permission in principle 12/00199/PPM was refused by East Lothian Council for a residential development of 89 houses on the application site. That decision was subsequently appealed to the Scottish Government Directorate for Planning and Environmental Appeals. In June 2014, following the conclusion of a legal agreement to secure education and affordable housing contributions, the appeal was allowed and planning permission in principle 12/00199/PPM was granted.

Approval of matters specified in conditions of planning permission in principle 12/00199/PPM is now sought for the erection of 89 houses and associated works on the application site.

Of the 89 houses, 53 would be detached, 16 semi-detached and 20 terraced. The submitted details also include for internal access roads, parking courts, landscaped open space and structural planting.

Vehicular access to the 89 houses would be taken from the A6137 road via a new access to be formed opposite the junction of the A6137 road and the access road serving Peppercraig Quarry Industrial Estate. Additionally, a footpath would be formed over part of the 25 metres wide strip of countryside land to the west of the site to provide a pedestrian link between the proposed housing site and the access road which leads from the A199 road to Alderston House, Alderston Coachhouse, Alderston Mains Farm, an office development and some other properties.

A substantial belt of planting would be formed along the northern and north-western parts of the site. A 1.2 metres wide right of access would be maintained along the southern boundary of the application site to allow for the maintenance of the existing boundaries along the north side of the adjacent properties of Haldane Avenue. A hedgerow interspersed with trees would be planted immediately to the north of the right of access. Two areas of public open space, one of which would contain an equipped play area would be formed centrally within the site. A SUDS pond would be formed within the southwest corner of the site.

Amended plans have been submitted showing:

- (i) revisions to the site layout plan to take account of comments raised by the Council's landscape project officer;
- (ii) revisions to the proposed scheme of landscaping for the site;
- (iii) Changes to the play equipment proposed for the play area; and
- (iv) fenestration changes to the houses on plots 1 and 2.

Condition 4 of planning permission in principle 12/00199/PPM requires a noise assessment to be submitted to and approved by the Planning Authority. A Noise Assessment Report has been submitted with this application.

Condition 7 of planning permission in principle 12/00199/PPM states that 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 in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the planning authority. A written scheme of investigation has been submitted with this

application.

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 28 February 2012 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission in principle. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed housing 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.

Relevant to the determination of the application is Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies H1 (Housing Quality and Design), DP1 (Landscape and Streetscape Character), DP2 (Design), C1 (Minimum Open Space Standard for new General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), T2 (General Transport Impact), DP20 (Pedestrians and Cyclists), DP22 (Private Parking) and DP24 (Home Zones) of the adopted East Lothian Local Plan 2008.

A material consideration is the supplementary planning guidance of "Design Standards for New Housing Areas" approved by the Council on 10th March 2008. This guidance requires that a more flexible approach be taken in road layout and design for proposed housing developments and sets core design requirements for the creation of new urban structures that will support Home Zone development as well as establishing design requirements for the layout of and space between buildings. Developers must provide adequate information to the satisfaction of the Council to demonstrate the merits of their design.

Six written representations have been received in respect of this application, five of which raise objection to the proposed development. One of the objections is from Haddington and District Amenity Society. The other representation does not state whether they support or object to the proposals.

The main grounds of objection are summarised as follows:

- * Proposed vehicular access from the A6137 road (Aberlady Road) would be extremely dangerous;
- * Loss of privacy, loss of daylight, increased traffic and activity;
- * The proposed development would have a detrimental effect on the setting of Haddington. In this regard, the proposals should be reconsidered to take a more

sensitive approach to housing layout, a less urban city approach to traffic and should include more subtle, varied and practical planting;

- * Loss of wildlife habitat and potential drainage issues;
- * Noise pollution from construction activities;
- * Impact on infrastructure such as schools and the GP surgery;
- * Reduction in the value of the objector's property;
- * The fact that there would only two of the proposed houses would be single storey in height is misleading; and
- * Why are the Council allowing these houses to be built when there is over 500 houses already getting built in Haddington?

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

A perceived devaluation of an objector's property is not a material consideration in the determination of a planning application.

Haddington Area Community Council, a consultee, do not object to the proposals.

By the grant of planning permission in principle 12/00199/PPM, approval has been given for the principle of the erection of 89 houses on the application site. There can therefore be no objection in principle to the erection of the 89 houses now proposed.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development and the landscaping of and means of access to the site. In this regard the detailed proposals have to be considered against relevant development plan policy and the indicative site layout plan and conditions attached to planning permission in principle 12/00199/PPM.

The details now submitted for approval are for a scheme of development comprising a mix of detached, semi-detached and terraced houses (10 types of residential units), with 79 of the proposed 81 houses being two storey in height. The other two houses would be single storey in height.

The houses and associated areas of ground, in their proposed groupings, orientations, and layout would be consistent with the principles of 'Home Zones' as set out in the Council's Design Standards for New Housing Areas, as would be the proposed layout of roads, pathways, parking courts and parking spaces.

The proposed residential development would integrate with and respect the landscape, landform, and urban form of the area. With its proposed layout, the proposed development would create an attractive extension to the northern edge of Haddington. It embodies an appropriate mix of detached, semi-detached and terraced houses. The proposed houses, due to their positioning on the application site and by virtue of their height, size and scale, and architectural design would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. The two single storey houses proposed for the northeast corner of the site would help to reduce the visual impact of the development when seen from Aberlady Road. The other

components of the proposed development would not be harmful to the character and appearance of the area.

The proposed housing development would provide an attractive residential environment. The houses are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses an appropriate level of privacy and residential amenity. Cross section drawings submitted with the application show how the houses to be erected on the southern part of the site would be built on higher ground than that of the existing houses of Haldane Avenue to the south. However, although they would be built on higher land, the proposed houses would be positioned sufficiently far from those existing houses so as not to have an unacceptably dominant or overbearing impact on them.

The application site is capable of accommodating all of the houses without being an overdevelopment of the site and without being incompatible with the density of existing housing development in the area.

The proposed scheme of landscaping has been amended in light of comments received from the Council's Landscape Project officer. She advises that the amended scheme of landscaping is acceptable.

At its nearest, the A1 trunk road is some 30 metres to the south of the application site. The nearest of the proposed residential units would be some 45 metres from the road.

Condition 4a of planning permission in principle 12/00199/PPM required that a 4 metres high acoustic barrier in the form of a 3 metres high acoustic fence atop a 1 metre high earth bund be erected in the belt of planting to be formed along the northern boundary of the site in accordance with a noise assessment to be submitted to the Planning Authority for approval.

The submitted noise assessment is based on the final ground levels at each of the proposed houses. It concludes that the effect of the final ground levels and layout, as now proposed, is at least equivalent to or in most cases better than the acoustic barrier required by condition 4a. The Council's Environmental Protection Manager accepts the findings of the noise assessment and in the circumstances agrees that it is no longer necessary for the applicant to erect the acoustic barrier required by condition 4a. She raises no objection to the proposed housing development. Through condition 4b of planning permission in principle 12/00199/PPM, there is still a requirement for windows of habitable rooms of the houses along the northern boundary of the site facing the A1 trunk road to be provided with standard thermal double glazing (6/12/4 or similar) and acoustic trickle ventilators.

On all of these foregoing findings on matters of design, layout, landscaping and amenity the details submitted for approval are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies DP1, DP2 and DP24 of the adopted East Lothian Local Plan 2008 and the Council's Design Standards for New Housing Areas.

The proposed site layout includes two areas of open space, consistent with the indicative site layout plan docketed to planning permission in principle 12/00199/PPM. The Council's Principal Amenity Officer is satisfied with both the size and location of the proposed areas of open space. On this consideration the proposed development is consistent with Policy C1 of the adopted East Lothian Local Plan 2008.

The westernmost of the two areas of open space would contain an equipped play area. The equipment proposed within the plat area has been revised following concerns raised by the Council's principal amenity officer. He raises no objection to the equipped play area now proposed. On this consideration the proposed development is consistent with Policy C2 of the adopted East Lothian Local Plan 2008.

Paragraph 2.6 of the "Design Standards for New Housing Areas", approved by the Council on 10th March 2008, states that new housing development must create a hierarchical, permeable and interconnected street layout that complements and should extend the surrounding street pattern. Such layouts spread vehicle traffic evenly through a site and to the surroundings, help prevent localised traffic congestion, and encourage walking and cycling. Proposed street layouts must maximise connections within the site and to surrounding streets, and ensure the movement requirements of the development strategy are met. By the design and arrangement of street types, street layouts must influence vehicle drivers preferred route choice to ensure the tertiary streets between residential blocks are less busy. In paragraph 2.9 it is stated that Home Zones must be introduced to new development as part of a hierarchical, permeable and interconnected street layout.

The principles of the means of accessing of the proposed housing are already decided by the grant of planning permission in principle 12/00199/PPM. These are that vehicular access to the housing development of 89 houses should be taken directly from the A6137 public road. Additionally a footpath should be formed to provide a pedestrian link between the proposed housing site and the access road which leads from the A199 road to Alderston House, Alderston Coachhouse, Alderston Mains Farm, an office development and some other properties.

The submitted details for accessing the proposed 89 houses are in accordance with these principles established by the grant of planning permission in principle 12/00199/PPM.

The Council's Road Services raise no objection to the submitted details, being satisfied with the proposed means of access and with the amount and location of parking within the site. They do however make recommendations on the standards of provision.

They recommend that:

(i) the footpath between the proposed housing site and the access road which leads from the A199 road to Alderston House, Alderston Coachhouse, Alderston Mains Farm, an office development and some other properties be formed and made available for use in accordance with a timescale to be submitted to and approved in advance by the Planning Authority;

(ii) all access roads conform to ELC Standards for Development Roads in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming;

(iii) home zone entries should have a minimum width of 3.5 metres; and

(iv) wheel washing facilities are provided during the construction phase of the housing development.

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

On these foregoing transportation and other access considerations the proposed residential development is consistent with Policies T2, DP20 and DP22 of the adopted East Lothian Local Plan 2008.

Transport Scotland raise no objection to the details of the 89 houses now proposed.

The Council's Waste Services Manager raises no objection to the details of the 89 houses now proposed.

The Council's Access Officer raises no objection to the details of the 89 houses now proposed. She does however advise that the proposed development would result in the loss of open space and greenspace land where people currently undertake informal recreation such as walking their dogs. In light of this she recommends that an informal footpath should be formed along the northern part of the site. This recommendation has been forwarded onto the applicant, who have raised concerns over security, safety and privacy issues that may affect marketing of the proposed housing. They advise that they would be unwilling to provide the footpath recommended by the Council's Access Officer. There is no requirement in terms of planning permission in principle 12/00199/PPM for the applicant to form an informal footpath along the northern part of the site. Moreover, Transport Scotland are concerned that dogs using the informal footpath may stray onto the adjacent grass verge of the A1 and onto the trunk road itself. This would create a serious road safety hazard. In light of this, Transport Scotland recommend that, if the path were to be formed, an "unclimbable barrier" should be formed between the path and the trunk road to minimise the risk of people and animals gaining unrestricted access to the A1. Whilst details of this barrier have not been submitted, there is concern from planning and landscape officers of the Council that such a barrier may appear prominent and intrusive when viewed from the A1 trunk road. In light of this, and given the fact that there is no requirement in terms of planning permission in principle 12/00199/PPM for the applicant to form an informal footpath along the northern part of the site, it would be unreasonable for the Council as Planning Authority to now require the provision of an informal footpath.

The mechanism of a financial contribution towards additional educational provision in Haddington for a housing development of 89 houses has already been secured through the grant of planning permission in principle 12/00199/PPM.

The mechanism of the provision within the residential development of 25% affordable housing (i.e. 22 units of the proposed 89 units) is already secured through the grant of planning permission in principle 12/00199/PPM.

The Council's Housing Strategy and Development service raise no objection to the details of the 89 houses now proposed.

The matter of site drainage was considered through the determination of previous application 12/00199/PPM. Condition 10 required that details of the proposed integrated sustainable urban drainage scheme (SUDS) for the site should be submitted in writing for the approval of the Planning Authority following consultation with the Scottish Environment Protection Agency. A SUDS Masterplan Strategy has been submitted with this application showing details of the proposed integrated sustainable urban drainage scheme (SUDS) for the site. The Scottish Environment Protection Agency raise no objection to the details of the 81 houses now proposed, being satisfied with the submitted SUDS Masterplan Strategy.

The Council's Senior Structures Officer does advise of the need for a drainage impact assessment but the matter of drainage is one for the applicant to address directly with

Scottish Water and through separate Building Standards legislation.

Scottish Water were consulted on the planning application but have not commented on it.

The Council's Archaeology/ Heritage Officer advises that the submitted written scheme of investigation is acceptable.

RECOMMENDATION

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

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

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

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

Reason:

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

- 2 Notwithstanding the drawings docketed to this Approval of Matters, 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 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.

- 5 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.

- 6 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) the "access footpath from western site boundary to Alderston Lane" shall be formed in accordance with details to be submitted to and approved by the Planning. The details shall include a timetable for implementation;

(ii) all access roads shall conform to ELC Standards for Development Roads in relation to roads layout and construction, footways & footpaths, parking layout and number, street lighting and traffic calming measures; and

(iii) Home Zone entry's shall have a minimum width of 3.5metres.

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

Reason:

In the interests of road and pedestrian safety.

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

REPORT TO: Planning Committee
MEETING DATE: Tuesday 2 December 2014
BY: Depute Chief Executive
(Partnership and Community Services)
SUBJECT: Application for Planning Permission for Consideration

3

Application No. **14/00632/PPM**

Proposal Planning Permission in Principle for residential development and associated works

Location **Ferrygate Farm
Dirleton Road
North Berwick
East Lothian
EH39 5DJ**

Applicant Miller Homes

Per Holder Planning

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: 14/00003/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 29 people attended the pre-application public exhibition, which was held at the Macdonald Marine Hotel, North Berwick on 02 April 2014, and that those attendees raised a number of issues 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 7.6 hectares of agricultural land located immediately to the west of North Berwick. It has a broadly rectangular footprint and forms part of a larger field.

The site is bounded to the north by a length of Dirleton Road (the A198 road), a petrol filling station and garage, a small landscaped area and a number of houses. It is bounded to the east by a single track lane, known as Gasworks Lane, and beyond by houses and gardens and by agricultural land. It is bounded to the south by agricultural land and to the west by a tree belt, beyond which is agricultural land.

In August 2012 planning permission in principle (Ref: 12/00680/PPM) was sought for the residential development of some 10.3 hectares of agricultural land at Ferrygate Farm. That site included most of the land that is the subject of this planning application. A site layout plan submitted with that application shows how 140 residential units might have been accommodated within the application site. In April 2013 planning permission in principle 12/00680/PPM was refused for the following six reasons:

1. The new build housing development proposed in principle in this application is not necessary for agriculture, horticulture, forestry or other employment use and thus it is contrary to Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy DC1 of the adopted East Lothian Local Plan 2008.
2. There is no demonstrable need for a grant of planning permission in principle for housing development of the land of the application site to release additional land for house building and in this the proposal is not supported by Policy HOU10 of the approved Edinburgh and the Lothians 2015.
3. In that the land of the application site is greenfield land not allocated for housing development through the adopted East Lothian Local Plan 2008 and is not required to meet strategic housing land allocations, the proposed development is contrary to Policy HOU8 of the approved Edinburgh and the Lothians Structure Plan 2015 and with Scottish Planning Policy: February 2010 on housing land.
4. In that the proposal is contrary to Policies ENV3 and HOU8 of the Structure Plan, they are also contrary to the requirement of Policy HOU10 of the approved Edinburgh and the Lothians Structure Plan 2015 that the bringing forward of any additional land into the already allocated housing land supply by a grant of planning permission will comply with other Structure Plan policies.
5. Development of the site for houses would be contrary to the objectives, proposals and policies of the adopted East Lothian Local Plan 2008 on housing development within and outwith the settlements of East Lothian. It would prejudice the development of allocated strategic housing sites, particularly at Gilsland and at Mains Farm, both in North Berwick. In this the principle for housing development of the land of the application site is contrary to Policy HOU3 of the approved Edinburgh and the Lothians Structure Plan 2015 and Proposals H1 to H7 of the adopted East Lothian Local Plan 2008.
6. A housing development of the application site would result in the loss of some 10.3 hectares of prime agricultural land and is not necessary to meet any established need and thus the principle of such development is contrary to Policy DC1 (Part 5) of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

An appeal against that decision of East Lothian Council was subsequently dismissed by the Scottish Government's Directorate for Planning and Environmental Appeals. It should be noted that the appeal was considered on the basis of an indicative layout of 111 residential units, as the applicant had informed the Reporter that they no longer intended to erect the 29 residential units proposed for the part of that site to the east of Gasworks Lane. A challenge against this appeal decision is currently being considered by the Court of Session.

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

An indicative layout plan has been submitted with the application indicating how some 140 residential units could be accommodated on the application site. It is also indicated that a SUDS pond be accommodated on the northwestern part of the site and an area of recreational open space and play facilities could be accommodated centrally within the site. It is further indicated how footpath linkages through the site could be formed, and how new areas of woodland could be planted. This could include a new area of woodland along the western edge of the site, which, together with the existing woodland belt immediately to the west of the site, could create a woodland strip of 45 metres in width.

No illustrative drawings have been submitted with the application to indicate the design of any of the residential units.

The indicative layout plan indicates that access to the site could be taken from Dirleton Road via a new access to be formed some 30 metres to the west of the petrol filling station and garage on Dirleton Road.

The application is supported by, amongst other things, a Pre-application Consultation Report, a Planning Statement, a Landscape and Visual Impact Assessment, a Noise Assessment and a Transport Assessment.

The planning statement submitted with this application provides background details on the proposals and sets out the key reasons why the applicant considers that planning permission in principle should be granted. It declares that there is a clear shortfall in the 5-year housing land supply in East Lothian and that this proposal would deliver much needed housing, including affordable housing, in the short term. Subsequent to the registration of this application, a planning statement addendum has been lodged. Its purpose is to provide comments on the meaning, interpretation and weight to be attached to the revised Scottish Planning Policy: June 2014 in the context of this application.

The application site has also been submitted as part of the local development plan process following a call for sites by the Council as part of the research towards the new Local Development Plan. The Council's Main Issues Report (MIR) is a consultation document which considers such submissions and other sites. The MIR proposes the application site as an alternative site for housing in relation to the proposed alternative development strategy. The MIR is a material consideration, however, as a consultation document it can be accorded only limited weight at this stage.

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 08 May

2012 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that a residential development of the scale proposed 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 housing 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), DP17 (Art Works-Percent for Art), DP20 (Pedestrians and Cyclists), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing), 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.

One of the main Outcomes of Scottish Planning Policy is to create a successful, sustainable place by supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places.

This is reflected in paragraph 25 of Scottish Planning Policy in which it is stated that the Scottish Government's commitment to the concept of sustainable development is reflected in its Purpose. It is also reflected in the continued support for the five guiding principles set out in the UK's shared framework for sustainable development. Achieving a sustainable economy, promoting good governance and using sound science responsibly are essential to the creation and maintenance of a strong, healthy and just society capable of living within environmental limits.

The principle in delivering this through the Development Management function is contained in paragraph 33 of Scottish Planning Policy in which it is stated that where relevant policies in a development plan are out of date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration. Decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in this SPP. The same principle should be applied where a development plan is more than five years old.

Paragraph 34 states that where a plan is under review, it may be appropriate in some circumstances to consider whether granting planning permission would prejudice the emerging plan. Such circumstances are only likely to apply where the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions

about the scale, location or phasing of new developments that are central to the emerging plan. Prematurity will be more relevant as a consideration the closer the plan is to adoption or approval.

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 21 written representations have been received in respect of this application, of which 20 make objection to the principle of the proposed development. The other representor does not state whether they object to or support the proposed development.

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

The main grounds of objection are summarised as follows:

- * local infrastructure, particularly the schools and health centre, would be adversely affected and could not cope;
- * the town centre cannot support the existing level of traffic without adding more;
- * loss of prime (grade A) agricultural land;
- * if approved, development would promote ribbon development between North Berwick and Dirleton;
- * lack of employment in North Berwick will lead to an increase in out-commuting;
- * the proposed development would have a harmful visual impact and would be detrimental to the area;
- * proposal is contrary to the adopted Local Plan as a location for residential development;
- * proposed development would increase traffic on the surrounding road network;
- * the rail station car park is already at full capacity and additional trains and carriages would be required to meet the increase in commuting;
- * the planning application is premature and should await the production of a future Local Development Plan;
- * concern that the sewage and drainage system may be unable to cope with the proposed housing; and
- * the walking times quoted by the applicant are incorrect and appear to be based on

assumptions that new footpaths will be able to be routed across private property and along privately owned roads.

North Berwick Community Council recommend refusal of the application on the grounds that:

- * North Berwick is not within the A1 corridor and thus not within a Strategic Development Area;
- * it is situated on a poor road network and the town has very few employment opportunities save for retail and tourism related trades and agriculture. All of this points towards an increased amount of traffic commuting to and from Edinburgh and other towns;
- * the train service is inadequate and will need further investment;
- * the infrastructure of North Berwick cannot cope with an influx of further inhabitants;
- * the existing schools and supermarket are not within walking distance of the site; and
- * the proposal would encourage the coalescence of Dirleton and North Berwick.

Gullane Area Community Council recommend refusal of the application. They further advise that it would be inappropriate for East Lothian Council to allow the application site to be developed until the report (Main Issues Report) has been published and the consultation on it has been completed.

As part of the existing area of undeveloped agricultural land between North Berwick and Dirleton the land of the application site, as an area of countryside between them, serves to differentiate one from the other. However the application site forms only a relatively small part of that existing area of undeveloped agricultural land. A housing development of the application site, and thus of a relatively small part of the intervening countryside land between North Berwick and Dirleton, would not compromise the separate forms and identities of those two places. Nor would it result in the coalescence of them. There is no other planning application before the Council at this time proposing the housing development of any of the other undeveloped agricultural land between North Berwick and Dirleton. It would be for the Planning Authority through the determination of any such future application to decide whether or not the development proposed in it was acceptable. A grant of planning permission for the housing development now proposed would not prejudice any such future determination(s).

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 in relation to Scottish Government Policy of Designing Streets and the Council's Urban Design Standards for New Housing Areas, 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 western edge of North Berwick.

The application site is immediately to the west of part of North Berwick. It has only a small interface with Dirleton Road, and is largely contained to the south of residential properties and the petrol filling station and garage on Dirleton Road. This existing built form gives the site a degree of visual containment. The western part of the site is

screened by a woodland tree belt. As it matures, this tree belt would provide increased screening of the site when approaching North Berwick eastwards along the A198 road. The applicant is proposing to increase the width of this tree belt to 45 metres, which in time would further help to integrate the development into its surroundings. The proposed landscaping of the site together with its well contained location means that in principle, the site could acceptably be developed for housing in the manner indicatively proposed without detriment to the landscape setting and character of North Berwick. On this consideration, the principle of the proposed development is consistent with Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

The Council's Principal Amenity Officer notes that the layout shown on the indicative site layout plan is different from that shown on the Landscape Layout Plan contained within the applicant's landscape and visual impact assessment. As well as a central area of open space, the Landscape Layout Plan also shows the provision of allotments and a flat grass sports pitch within the site. Given the lack of public open space within the western part of North Berwick, the Principal Amenity Officer is supportive of these open space proposals as shown in the submitted Landscape Layout Plan.

If planning permission in principle were to be granted for residential development of the site then it would be possible to secure the public open space shown on the Landscape Layout Plan through the imposition of a planning condition. It would also be possible to impose a planning condition to require further details of the allotments, including their long term management arrangements, to be submitted to and approved by the Planning Authority. The open space provision shown on the Landscape Layout Plan would be sufficient to serve a development of 140 houses consistent with Policy C1 of the adopted East Lothian Local Plan 2008.

Regarding formal play provision, the Principal Amenity Officer is satisfied with the proposed play area, which would be centrally located within the site. He recommends that it needs to provide a good range of individual play activities across the age range of toddler to 12 years old. If planning permission in principle were to be granted for the residential development of the site then a condition could be imposed to require that the details of the play area be submitted to and approved by the Planning Authority. Subject to the imposition of this planning condition, the proposed development is consistent with Policy C2 of the adopted East Lothian Local Plan 2008.

The Council's Access Officer is satisfied that the indicative site layout plan includes a number of footpaths. However, he advises that it looks from the current proposals that the only option for pedestrians would be to walk along Dirleton Road, which is far from ideal. He advises that it is important that any development at Ferrygate Farm should have good quality off-road routes into North Berwick.

The applicant has submitted a Transport Assessment with this planning application. In itself this submission is consistent with Policy DP18 of the adopted East Lothian Local Plan 2008.

The Council's Roads Services has considered the Transport Assessment and agrees with the findings that the traffic likely to be generated by the proposed housing development of the application site could be satisfactorily accommodated on the local road network. The assessment takes into account the additional traffic that could also be generated by the housing development of the lands of Gilsland and Mains Farm, respectively the subject of Proposals H5 and H6 of the adopted East Lothian Local Plan 2008.

It is proposed in principle in this application that site access would be directly from

Dirleton Road. Roads Services raise no objection in principle to these proposed access arrangements, subject to the existing 40 miles per hour speed limit being extended westwards on Dirleton Road, to the west of the proposed site access and subject to an independent road safety being undertaken for the proposed site access.

Roads Services raise no transportation objection to the principle of the proposed development of the application site subject to the imposition of conditions on a grant of planning permission in principle to ensure that appropriate off site road improvement works are undertaken, including ensuring that there is a satisfactory footpath connection between the application site and the existing public footway network on Williamstone Court, to the southeast of the site. This footpath connection should be formed and made available for use prior to the occupation of the first house.

With regard to safe routes to school, the Transport Assessment submitted with previous planning application 12/00680/PPM concluded that a school crossing patrol should be placed at the junction between Ware Road and Highfield Road. This is not referred to in the Transport Assessment submitted with this planning application. On this matter, the advice of the Council's Roads Services is that a schools crossing patrol should be placed at this junction to ensure a safe route to school. They further advise that the obligation for the applicant should be the payment to the Council of a developer contribution of £15,000 to fund a school crossing patrol for a fixed period of five years. This contribution can be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal Agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements.

The requirement for the developer contribution of £15,000 is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where the developer makes appropriate provision for infrastructure required as a consequence of their development.

In respect of the internal road layout shown on the indicative layout plan Road Services raise some concerns about the lack of deflection to keep vehicle speeds down and the lack of visitor parking within the southwest part of the site. These are matters of detail that could be resolved through the imposition of planning conditions, should planning permission in principle be granted for the proposed development.

It is also recommended by Roads Services that a Green Travel Plan be submitted, that wheel washing facilities be provided during the construction period, and that construction traffic movements be controlled.

With the imposition of conditions to cover the recommendations of Roads Services the proposed development would, in principle accord 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 advise that the semi-mature belt of trees to the west of the site provides a visual screen. In their view the proposed housing should not have a detrimental impact in views of the site from the west along the A198 road. The proposed planting of a beech hedge along the site's boundary with Dirleton Road is supported. This could be complemented with trees. They further recommend that the housing development should be designed in accordance with BS5837: 2012 "Trees in relation to design, demolition and construction-Recommendations". To reduce the visual prominence of the development, it is recommended that the height of the houses at the entrance of the development should be reduced to single storey to tie in with the existing development along the south side of

Dirleton Road and to enhance views through the site to Berwick Law. These recommendations, which also include submission of a detailed landscape planting plan for the site, could be made a condition of a grant of planning permission in principle for the proposed development.

The Council's Policy and Projects service raise some concern about the visual impact of the proposed allotments, which are indicatively shown on the Landscape Layout Plan. As they are shown, the allotments would be positioned behind the rear (south) boundary line of the garages and houses on the south side of Dirleton Road and some 50 metres to the south of Dirleton Road itself. Subject to the provision of suitable planting and boundary treatments to the north of them, it is not considered that the allotments in their indicative position would be prominent or intrusive features, harmful to the character and appearance of the area.

The Council's Environmental Protection Manager raises no objection to the principle of housing development of the application site.

The Scottish Environment Protection Agency raise no objection to the principle of the proposed development. They do however recommend that details of the location and route of the Strathearn Culvert and the field drain is submitted to and approved by the Council and that no built development is located on top of those structures and flood risk is not increased elsewhere.

On the matter of flood risk, the Council's Senior Structures Officer raises no objection to the principle of the proposed development, although he advises that the details of the proposed sustainable urban drainage system (SUDS) should be submitted to and approved by the Council as Planning Authority.

In their consultation response, Scottish Water advise that while the capacity at North Berwick Waste Water Treatment Works (WWTW) is currently limited, a growth project has been raised and this site is included within the growth projections. In the shorter term they will work with all developers in the area to understand their build out rates and how they are managed during the development of the growth project. Scottish Water raises no objection to the principle of the proposed development.

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 Law Primary School and North Berwick High School.

He advises that both Law Primary School and North Berwick High School do not have sufficient capacity to accommodate children that could arise from the proposed development. Thus he objects to the application on the grounds of lack of permanent capacity at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of £1,425,000 towards the provision of additional school accommodation at Law Primary School and a contribution of £785,000 towards the provision of additional school accommodation at North Berwick High School

The required payment of a financial contribution of a total of £2,210,000 (£15,785.71 per unit) towards the provision of additional accommodation at Law Primary School and

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

The Council's Economic Development & Strategic Investment Manager advises that 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. They should be provided on site or if it can be demonstrated to the Council that this, or the off-site provision of the required affordable units is not practicable, a commuted sum payment should be made to the Council in lieu of such an on or off-site provision. The terms for the provision of this affordable housing requirement 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 confirms they are willing to do, the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

The matter of the impact of a residential development at Ferrygate Farm upon local services, such as the local health centre, was fully considered through the determination of previous planning application 12/00680/PPM. In taking the decision to refuse planning permission 12/00680/PPM, the position of East Lothian Council as Planning Authority was that, as a requirement of development of the site, it would have been unreasonable to insist that the applicant should make a financial contribution towards increasing the capacity of North Berwick Health Centre. This position was backed by the Reporter who determined the subsequent appeal, who concluded that "I find that the cost of healthcare provision is not something to which the Appellant should be expected to contribute". It would therefore be unreasonable for the Council as Planning Authority to now insist on the applicant making such a developer contribution.

Given the scale of the proposed development, if planning permission in principle were to be granted it would be appropriate for artwork to be incorporated either as an integral part of the overall design of it or as a related commission to be located on the site or in an approved alternative location. This could be achieved by means of a condition on a grant of planning permission in principle, subject to which the proposals would be consistent with the requirements of Policy DP17 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.

Policy DC1 also requires that loss of prime agricultural land be minimised. In respect of this, the release of Greenfield land for housing development will often result in loss of prime agricultural land. The proposed density of development, taken in conjunction with the provision of green space for the development and the area, is such that it can be considered that the loss of prime agricultural land would be minimised.

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.

SESplan Policy 7 states that sites for greenfield housing development proposals either within or without the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain an effective five years housing land supply subject to satisfying each of the following criteria:

- (a) The development will be in keeping with the character of the settlement and the local area;
- (b) The development will not undermine green belt objectives; and
- (c) 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. The site is in the control of a housebuilder, Miller Homes. In these respects it can be considered to be physically and financially capable of being immediately effective or capable of being so well within a period of five years from the determination date of this planning application. On these specific considerations the site can be considered to be effective.

In respect of criteria 2; scale, the proposed housing development of 140 residential units would be below the Guidance threshold of 200 units. The guidance states that the actual number of houses permissible on any one site or within any one settlement will be assessed against the scale and character of the specific settlement. Other than in the main towns, the maximum permissible will therefore be significantly less than the maximum capacity of 200 units. North Berwick is one of the main towns within East Lothian. Whilst this scale of growth would be significant, it would nevertheless be appropriate to the scale and character of the town.

North Berwick is one of the main towns within East Lothian. Whilst this proposed scale of growth would be significant, it would nevertheless be appropriate to the scale and character of the town. In this respect it does not conflict with criteria 2 of the Interim Guidance. In this and in that the proposals would not undermine green belt objectives and the infrastructure requirements are either committed or would be met by the developer, including for education provision, the proposals comply with Policy 7 of SESplan.

In respect of criteria 3; timing, the applicant's agent has indicated that development could commence during 2015 and all 140 houses could be completed by 2019. 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 would 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 western edge of North Berwick and therefore in this respect satisfies the first 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 North Berwick lies outwith the East Lothian Strategic Development Area the proposed development also has to be assessed against the tests as set out in parts (i) and (ii) 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 in keeping with the scale and character of the existing town of North Berwick. Moreover, the proposed development meets proviso 5(i)(b) in that there is no evidence to suggest that infrastructure is not available or could not be made available within a timescale that allows for early house completions.

Therefore on this consideration the housing development of the application site is consistent with 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), as some of the objectors have informed, the car park at North Berwick train station often nears its capacity. The lack of capacity could become more significant once the housing sites at Mains Farm and Gilsland have been developed and are occupied. Objectors also inform that capacity on the trains can be an issue. Notwithstanding this, there is a bus stop on Dirleton Road, in close proximity to the application site. A regular bus service operates from this bus stop to Musselburgh and Edinburgh. On this matter, the site is relatively well served by public transport.

Turning to part 5(ii) (b) there is a wide range of facilities and services available in North Berwick, including primary and secondary schools, medical and dental facilities, a sports centre and swimming pool, and various retail stores, which would be available to future residents. In allowing for residential development outwith as well as within the Strategic Development Area for East Lothian, SESplan, including its Policy 7, gives due consideration of patterns of travel and sustainability of such developments. Therefore the proposals do not conflict with this consideration.

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 town of North Berwick, 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 east side by Gasworks Lane, on its west side by an existing tree belt and on its north side by a length of Dirleton Road, a petrol filling station and garage, a small landscaped area and a number of houses. These are robust and defensible boundaries which would serve to contain the proposed development along these aforementioned boundaries.

However the south 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. In respect of these concerns, the applicant has indicated that substantial planting could be provided along the length of the south boundary of the site, however, this would take many years to establish and thus cannot be taken to provide a robust boundary enclosure in the short to medium term.

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

The purpose of the Interim Planning Guidance is to ensure that the release of additional land to support the housing land supply is managed by providing a criteria based approach to what constitutes acceptable development. The principle of a robust, defensible boundary is to allow for relatively contained sites to be come forward for development whilst guarding against land releases which could ultimately lead to other land being brought forward under the application process where other options may have a better spatial and planning justification.

Application 12/00680/PPM, which was refused planning permission in principle by the Council and on appeal, included most of the land that is the subject of this planning application within its greater site area. It also promoted housing development on land to the south of the site that is the subject of this planning application. Additionally the applicant's submission for the MIR/local development plan process is for a site which includes the land to the south of the site up to the railway line.

Accordingly, a grant of planning permission in principle would set a precedent for subsequent future expansion to the south. It would not reinforce an existing boundary treatment of the site but rather would impose an arbitrary one on it.

The application site therefore cannot be considered to be the whole site in the terms of Part 2 of the Interim Planning Guidance, which states that planning applications which are a consequence of the subdivision of a larger site with smaller applications in order to meet this (200 unit) maximum will be resisted.

The proposals are significantly contrary to these two considerations of the Council's Housing Land Supply: Interim Planning Guidance.

The applicant's agent advises the Council that Scottish Planning Policy: June 2014 is the principal consideration guiding the determination of planning applications in circumstances where the development plan is out of date.

Paragraph 125 of Scottish Planning Policy states that where a shortfall in the 5-year effective housing land supply emerges, development plan policies for the supply of housing land will not be considered up-to-date and paragraphs 32-35 will be relevant.

As stated in the Council's Housing Land Supply: Interim Planning Guidance, the Council

acknowledges that there is currently a shortfall in the 5-year effective housing land supply. Thus paragraphs 32-35 of Scottish Planning Policy are relevant to the determination of the application.

Scottish Planning Policy states in paragraph 33 that where relevant policies in a development plan are out of date...then the presumption in favour of development that contributes to sustainable development will be a significant material consideration.

The applicant contends that the proposals would contribute to sustainable development; amongst other things it would bring economic benefit, support good design and make efficient use of land and therefore Scottish Planning Policy supports the principle of the proposed development.

Paragraph 29 of Scottish Planning Policy sets out 13 principles of sustainable development. Not all of these are relevant to this particular case of proposed residential development.

It would meet some of these principles. For example, there would be some economic benefit from the proposed development, including direct and indirect employment opportunities during the construction period. The proposed development could also support good design.

However, the applicant offers no evidence that the proposals meet some of the key principles of sustainability given in Paragraph 29, including supporting climate change mitigation and adaptation as set out in Scottish Planning Policy and the Scottish Government's Land Use Strategy. Thus no significant weight can be given to the contention that the proposals would deliver a sustainable development in the terms of this significant material consideration. Therefore it cannot be held to outweigh the considerations of the Interim Planning Guidance.

Equally, Scottish Planning Policy makes it clear that its aim is to achieve the right development in the right place (Paragraph 28); it is not to allow development at any cost.

As the Reporter acknowledged in his decision on the applicant's previous appeal, the site is not ideally located in relation to facilities in North Berwick. The Transport Assessment shows that it would take some 20 minutes to walk from the site to Law Primary School and North Berwick High School. The walking route to the town centre is the footway beside the A198 carriageway which, with its length, closeness to passing vehicles and uphill gradient on the return journey, would not be especially attractive to pedestrians. Two of the local supermarkets are on the side of the town furthest from the appeal site. On this count, and as the Reporter acknowledged in his decision on the previous appeal, there are issues relating to location of the site that do not favour approval of the proposed development.

Whilst there is due consideration to be given to the site contributing to the housing land supply, it is this consideration rather than the presumption in favour of sustainable development which needs to be weighed against the proposals non-compliance with Parts 2 and 5 of the Guidance. The consideration of housing land supply should not be taken to mean development at all costs and although in terms of Paragraph 34 of Scottish Planning Policy the proposed development is not so substantial that a grant of planning permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan, concession of the principle of development in this particular case could allow for more substantive development which could prejudice decisions about plan allocations in relation to the North Berwick area.

Given the questions over the contribution of the proposals to sustainable development and this issue of the emerging plan, the other material considerations do not in this case outweigh that the proposal does not meet significant requirements of the Interim Planning Guidance.

In conclusion there are no material considerations, including Scottish Planning Policy: June 2014, which outweigh that the new build housing development proposed in principle in this application is contrary on two counts to the Council's Housing Land Supply: Interim Planning Guidance.

RECOMMENDATION

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

- 1 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 in that the southern 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 south, the principle of which should be considered through the Local Development Plan process.
- 2 The application site for the proposed development is a subdivision of a larger site as demonstrated by the planning history of the site and the land to which it relates as demonstrated by the previous application submission (12/00860/PPM) and the applicant's submission to the Local Development Plan call for sites, contrary to Part 2 of the Council's Housing Land Supply: Interim Planning Guidance.

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 2 December 2014
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

4

Application No. **14/00732/PPM**

Proposal Planning permission in principle for residential development and associated works

Location **Land At Lempockwells Road
Pencaitland
East Lothian**

Applicant Gladman Developments 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: 14/00001/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 92 people attended the pre-application public exhibition, which was held at Carriage House, Pencaitland on 13 March 2014, 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 6.7 hectares of agricultural land on the west side of Lempockwells Road, on the southern edge of Wester Pencaitland.

The site is bounded to the north by the residential properties of Bruce Grove and Lamberton Court and by two areas of recreational amenity open space, to the east by a line of trees with Lempockwells Road beyond, to the south by more agricultural land and to the west by the Pencaitland Railway Walk public footpath with agricultural land beyond. It is currently open agricultural land and is situated on the southern edge of Wester Pencaitland. The site is somewhat elevated relative to the surrounding area and offers open views across the site. The northern edge is at a higher level than Bruce Grove. The site is screened to some degree from the east by tree cover and vegetation on the west side of Lempockwells Road.

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

An indicative masterplan 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 SUDS pond be accommodated on the northeastern part of the site, an area of recreational open space and play facilities could be accommodated on the southern part of the site and areas of parkland could be accommodated on the southern and eastern parts of the site. It is also indicated how footpath linkages from the site into the Pencaitland Railway Walk could be formed, how a landscaped buffer could be planted along the whole length of the southern boundary of the site and how landscape planting on the east boundary of the site with the Pencaitland Railway Walk would be maintained and enhanced.

The indicative masterplan indicates that access to the site could be taken from Lempockwells Road.

The application is also supported by an Archaeology Assessment, Landscape and Visual Impact Assessment, Planning Supporting Statement, Design Statement, Bat Survey, Transport Assessment, Road Safety Audit, Flood Risk Assessment and Drainage Strategy, Tree Survey, Engineering Report, Economic Impact Assessment, Sustainability Assessment, Noise Assessment, Habitat Survey, Soil and Agricultural Assessment and Utility Report.

The application site has also been submitted as part of the local development plan process following a call for sites by the Council as part of the research towards the new Local Development Plan. The Council's Main Issues Report (MIR) is a consultation document which considers such submissions and other sites. The MIR proposes the application site as a preferred site for housing in relation to the proposed preferred development strategy. The MIR is a material consideration, however, as a consultation document it can be accorded only limited weight at this stage.

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 27 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), DP14 (Trees on or Adjacent to Development Sites), DP17 (Art Works-Percent for Art), DP20 (Pedestrians and Cyclists), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing), 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.

One of the main Outcomes of Scottish Planning Policy is to create a successful, sustainable place by supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places.

This is reflected in paragraph 25 of Scottish Planning Policy in which it is stated that the Scottish Government's commitment to the concept of sustainable development is reflected in Scottish Planning Policy's Purpose. It is also reflected in the continued support for the five guiding principles set out in the UK's shared framework for sustainable development. Achieving a sustainable economy, promoting good governance and using sound science responsibly are essential to the creation and maintenance of a strong, healthy and just society capable of living within environmental limits.

The principle in delivering this through the Development Management function is contained in paragraph 33 of Scottish Planning Policy in which it is stated that where relevant policies in a development plan are out of date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration. Decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in Scottish Planning Policy. The same principle should be applied where a development plan is more than five years old.

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 63 written objections have been received in respect of this application. One of the written objections is a petition, with a total of 17 signatories to it. A copy of each written representation is contained in a shared electronic folder to which all Members of the Committee have had access.

The main grounds of objection are;

- * the proposed development would spoil the character of Pencaitland, is out of proportion with the village and would harm the quality of the environment;
- * the proposed development would have a harmful visual impact and would be detrimental to Pencaitland;
- * the site is countryside land covered by Policy DC1 of the adopted east Lothian Local Plan 2008 and thus is not zoned for housing;
- * there would be a loss of prime agricultural land;
- * local infrastructure would be adversely affected and could not cope;
- * the existing school cannot accommodate the development;
- * impacts on sewerage and drainage and issues of flooding;
- * 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, disturbance and pollution;
- * the public transport is poor;
- * there is little in the way of local amenities and the existing ones are under pressure and cannot accommodate the development;
- * the proposed development would lead to a loss of amenity through overlooking and loss of light to neighbouring properties;
- * the planning application is premature and should await the production of a future Local Development Plan; 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.

Pencaitland Community Council, as a consultee on the application, state that they note that the application site is outside the existing settlement boundary of the village of Ormiston, and thus the proposed development is contrary to the current Local Plan and the existing planning policies of the Council. They further note that the Council is under pressure to provide space for additional housing within the county. They state that having looked in detail at the planning application they are keen to avoid a scenario in

which, should the developer ultimately receive permission for the plan, no wider consideration is given to the provision of amenities for both the existing village population and those that would become part of an expanded community. They advise that historically, recent housing developments around Pencaitland have relied entirely on existing village amenities, with little apparent consideration given to the increase in population and the knock-on effects this would have on the need for the provision of appropriate additional recreational facilities. In practice this meant that developers built houses with no additional amenities forming part of any planning consent. Should another development ultimately receive consent, Pencaitland Community Council wishes to ensure this aspect is not, once again, overlooked. They propose that a requirement be included in a Section 75 Agreement that the developer/landowner provides a commitment to deliver improved play and recreation facilities to include from toddlers and teenagers, up to adults within the area of the development itself and/or elsewhere within the village.

The Community Council further advise it has taken no position on the merits or otherwise of the planning application per se but are keen to ensure that in the event that planning consent is granted, there is a strong and binding commitment from the developer, or subsequent interested parties, to provide much needed recreational amenity as a condition of any such consent.

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 in relation to Scottish Government Policy of Designing Streets and the Council's Urban Design Standards for New Housing Areas, 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 southern edge of Wester Pencaitland.

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 open space for informal recreation for a proposed development of 120 housing units, consistent with Policy C1 of the adopted East Lothian Local Plan 2008.

Regarding formal play provision, the Principal Amenity Officer advises that it would be more beneficial to enhance the existing play area at Lamberton Court, adjacent to the north boundary of the site, with additional facilities rather than provide a new facility within the application site. The applicants have confirmed in writing that they are willing to contribute a sum of £100,000 as the amount agreed with the Council's Principal Amenity Officer for enhancement of the existing play area at Lamberton Court. This contribution can be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal Agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing this appropriate developer contribution the proposal is consistent with Policy C2 of the adopted East Lothian Local Plan 2008.

In that a Transport Assessment has been submitted, in this respect the application accords with Policy DP18 of the adopted East Lothian Local Plan 2008.

The Council's Roads Services has considered the Transport Assessment submitted with the application and advise that traffic likely to be generated by the proposed

development could be satisfactorily accommodated on the local road network. However, Roads Services do 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 at this time Roads Services analysis and modelling of traffic impacts in the wider area awaits completion and no further information is available at this time to inform an assessment of such impacts.

Roads Services recommend that:

- * the existing 30 miles per hour (mph) speed limit be extended southwards on Lempockwells Road to the site access junction and include village entry treatments;
- * an independent road safety audit shall be undertaken for the proposed access junction onto Lempockwells Road;
- * a visibility splay of 4m by 120m in both directions be provided and maintained at the proposed site access junction with Lempockwells 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 west side of Lempockwells Road to link into the existing footway network, with dropped kerbs provided as necessary;
- * the proposed site access junction onto Lempockwells Road be a priority junction designed in accordance with the Design Manual for Roads and Bridges, Volume 6;
- * dropped kerb crossings be provided at each of the junctions of Lamberton Court and Huntlaw Road with Lempockwells Road;
- * 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 having minimum dimensions of 6 metres by 3 metres and double driveways having minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11m 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 being 2.5 metres by 5 metres and all visitor parking spaces within these areas being clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;
- * a swept path analysis be undertaken to ensure that both refuse and delivery vehicles can access and egress the site;

* 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 these recommendations of 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 the landscape planting shown on the indicative masterplan would provide an acceptable landscape setting for the proposed development. The advice is that a small number of trees on the west side of Lempockwells Road would have to be removed to facilitate vehicular access into the site but Policy and Projects do not object to this, subject to future planting at the site access to mitigate for this loss. Policy and Projects do raise some concern about the prominence of the site and the consequential visual impact of a housing development on the site. However the applicant has submitted viewpoints from the surrounding area which demonstrate that the site is well contained in local views and is not readily visible. Although a proposed housing development on the site would be visible in longer views from the wider area, the landscape planting proposed would be sufficient to allow a proposed housing development to be sufficiently absorbed into its landscape setting without appearing unduly prominent. Otherwise it is recommended that a detailed landscape planting plan be submitted to and approved in advance by the Planning Authority. This recommendation could be made a condition of a grant of planning permission in principle, subject to which it complies with Policy DP14 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Manager raises no objection to the principle of housing development of the application site.

The Scottish Environment Protection Agency (SEPA) on assessment of the applicant's submitted Flood Risk Assessment raise no objection to the principle of the proposed development on the grounds of potential flood risk. They do, however, advise that conditions should be attached to any grant of planning permission in principle requiring the need of the further submission of a more detailed flood risk assessment including information on the removal or modification of existing culverts.

The Council's Senior Structures Officer is also satisfied that the proposed development could be carried out without unacceptable risk of flooding. He does advise for the need for a drainage impact assessment but the matter of drainage is one for the applicant to address directly with Scottish Water and through separate Building Standards legislation.

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 and Preliminary Environmental Assessment Report have been submitted with the application. The Coal Authority advise that the submitted reports correctly identify that coal mining activity is recorded to have taken place beneath the application site and therefore recommend that intrusive site investigation works be undertaken to confirm coal mining conditions 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 Preliminary Environmental 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.

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 Pencaitland Primary School and Ross High School.

He advises that both Pencaitland Primary School and Ross High School do not have sufficient capacity to accommodate children that could arise from the proposed development. Thus he objects to the application on the grounds of lack of permanent capacity at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of £587,154 towards the provision of additional school accommodation at Pencaitland Primary School (£4,892.95 per unit) and a contribution of £193,403 (£1,611.69 per unit) towards the provision of additional school accommodation at Ross High School

The required payment of a financial contribution of a total of £780,557 towards the provision of additional accommodation at Pencaitland Primary School and Ross High School can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding necessary school capacity. The applicant confirms in writing that they are willing to enter into such an agreement.

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. They should be provided on site or if it can be demonstrated to the Council that this, or the off-site provision of the required affordable units is not practicable, a commuted sum payment should be made to the Council in lieu of such an on or off-site provision. The terms for the provision of this affordable housing requirement 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 confirms they are willing to do, the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

Given the scale of the proposed development, if planning permission in principle were to be granted it would be appropriate for artwork to be incorporated either as an integral part of the overall design of it or as a related commission to be located on the site or in an approved alternative location. This could be achieved by means of a condition on a grant of planning permission in principle, subject to which the proposals would be consistent with the requirements of Policy DP17 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. It also requires that a proposed development must minimise the loss of prime agricultural land. 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

SESplan Policy 7 states that sites for greenfield housing development proposals either within or without the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain an effective five years housing land supply subject to satisfying each of the following criteria:

- (a) The development will be in keeping with the character of the settlement and the local area;
- (b) The development will not undermine green belt objectives; and

(c) 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 confirms there is developer interest in the site from Miller Homes, Stewart Milne Homes and Taylor Wimpey should planning permission in principle be granted, meaning in these respects it can be considered to be physically and financially capable of achieving early delivery. On these specific considerations the site can be considered to be effective.

In respect of criteria 2; scale, the proposed housing development of 120 residential units would be below the Guidance threshold of 200 units. In respect of this the Guidance states that the actual number of houses permissible on any one site or within any one settlement will be assessed against the scale and character of the specific settlement.

Given that Pencaitland comprises some 590 residential properties the proposed 120 houses would be a relatively substantial addition to the settlement. Pencaitland has a small shop, a post office, a petrol station with shop, a church, village hall, community hall, primary school, bowling club and public house. In addition to the accessibility of these existing facilities, the site is such that it could be reasonably well integrated into its surroundings. In this it would not bring significant change to the character of Pencaitland. Given the size of the site, the proposed density of development and that it would not bring significant change to the character of Pencaitland the loss of prime agricultural land would be minimised.

As such the scale of the development can be reasonably absorbed by the settlement. In this respect it does not conflict with criteria 2. In this and in that the proposals would not undermine green belt objectives and that the infrastructure requirements are either committed or would be met by the developer, including for education provision, the proposals comply with Policy 7 of SESplan.

In respect of criteria 3; timing, the applicant's agent again refers to the interest in the site from 3 housing developers. It is indicated that the first housing completions could be delivered by 2016. 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, 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 southern edge of Wester Pencaitland 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 Pencaitland 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 those 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) and (b) in that there is no evidence to suggest that infrastructure is not available or cannot be made available within a timescale that allows for early house completions. In respect of 5(i)(c) the proposal does not conflict with other development plan policies.

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

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

(a) 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 also be a material consideration.

In terms of part 5(ii)(a) the application site is within close proximity of the nearest bus stops with a reasonable service to Haddington, East and West Saltoun and Tranent. There are also bus services from the main road through Pencaitland to Edinburgh via Ormiston, Tranent and Musselburgh.

In terms of part 5(ii)(b) Pencaitland has relatively limited services or facilities, with only a small shop, a post office, a petrol station with shop, a church, village hall, community hall, a primary school, bowling club and public house accessible within the settlement. Accessing all other facilities such as medical and dental practices, library, secondary school, leisure facilities and a greater range of shops does involve the need to travel. In allowing for residential development outwith as well as within the Strategic Development Area for East Lothian, SESplan, including its Policy 7, gives due consideration of patterns of travel and sustainability of such developments. Therefore the proposals do not conflict with this consideration.

In terms of part 5(ii)(c) the additional housing would help make a contribution to sustaining educational, social and community facilities 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 Pencaitland, 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 east side by Lempockwells Road, on its west side by the Pencaitland Railway Walk and on its north side by residential properties and existing areas of recreational open space. These are robust and defensible boundaries which would serve to contain the proposed development along these aforementioned boundaries.

To the south of the application site there is further agricultural land. There is a ditch and field boundary fence along this side of the site which create a small degree of boundary containment. To be considered robust, this would have to be substantially enhanced. The indicative site layout plan submitted with the application shows how structure landscaping could be planted along the length of the south boundary of the site. However, this would take many years to establish and thus cannot be taken to provide a robust boundary enclosure in the short to medium term.

On consideration of the above, the southern boundary of the application site is not contained within a robust, defensible boundary as required by the Interim Planning Guidance.

The purpose of the Interim Planning Guidance is to ensure that the release of additional land to support the housing land supply is managed by providing a criteria based approach to what constitutes acceptable development. The principle of a robust, defensible boundary is to allow for relatively contained sites to be come forward for development whilst guarding against land releases which could ultimately lead to other land being brought forward under the application process where other options might have a better spatial and planning justification.

Thus on this consideration 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 new build housing development proposed in principle in this application being contrary to the Council's Housing Land Supply: Interim Planning Guidance.

RECOMMENDATION:

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

- 1 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 in that the southern 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 south, the principle of which should be considered through the Local Development Plan process.

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 2 December 2014
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

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Note - this application was called off the Scheme of Delegation List by Councillor Innes for the following reasons: there was previous public objection to the unauthorised use as a beer garden, and local residents believe an outdoor dining area would have a significant detrimental impact on their amenity and I believe they should have the opportunity to express their concerns to members.

Application No. **14/00615/P**
Proposal Change of use of courtyard area to form outdoor dining area
Location **The Prestoungrange Gothenburg
227 High Street
Prestonpans
East Lothian
EH32 9BE**
Applicant Ms Anne Taylor
RECOMMENDATION Consent Granted

PLANNING PERMISSION

This application relates to The Prestoungrange Gothenburg and its grounds, located on the western end of High Street in Prestonpans. The building is on the south side of High Street and fronts onto the street. It is a detached Category B listed building and is in use as a public house with microbrewery and function/ dining areas.

The Prestoungrange Gothenburg and its grounds are bound to the north by High Street, to the east by Redburn Road North and to the south and west by residential properties.

The site is within an area identified by The Coal Authority as potentially being at risk from unrecorded mining related hazards.

Planning permission is sought for the change of use of the courtyard area to the east side of the building to form an outdoor dining area.

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.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) relevant to the determination of the application.

Relevant to the determination of the application are Policies ENV1 (Residential Character and Amenity) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

Two written objections to the application have been received. They are from occupiers of neighbouring residential properties. The grounds of objection are:

- (i) The courtyard area is already used as an outdoor smoking area and as patrons become more intoxicated; their raised voices reverberate off boundary walls and rise into neighbouring gardens;
- (ii) The use of area for smoking and drinking by patrons continues during functions until late at night, and;
- (iii) An application for a beer garden was previously sought and refused and this proposal is just another way of getting a beer garden.

There is no record of planning permission having been sought or granted for a beer garden to be established at The Prestongrange Gothenburg.

The control of the consumption of alcohol within the proposed outdoor dining area is controllable under separate licensing legislation.

Policy ENV1 of the adopted East Lothian Local Plan 2008 states that the predominantly residential character and amenity of existing or proposed housing areas will be safeguarded from the adverse impacts of uses other than housing. Development incompatible with the residential character and amenity of an area will not be permitted.

The proposed outdoor dining area use of the courtyard is a use that would be associated with the existing public house use of the premises of The Prestongrange Gothenburg, which is a well-established authorised licensed premises use within Prestonpans.

The area of courtyard to be used as an outdoor dining area is part of a much larger area of courtyard to the east and south of the licensed premises. The courtyard is enclosed on its east sides by a high stone wall. An area of courtyard and landscaping is to the south of it with a high stone wall beyond, separating it from the neighbouring residential property of 2a Redburn Road North.

Access from the licensed premises to the proposed outdoor dining area would be taken from doors formed in the re-entrant east elevation of the building. Otherwise access would be taken from High Street from a pedestrian access gate which encloses the north end of the courtyard and from Redburn Road North from two leaf gates formed in the east boundary wall of the site.

The outdoor dining area is to be used as an extension of the existing public house use of the premises. A material consideration in the determination of this application is whether or not this outdoor dining area use of the courtyard is acceptable relative to its relationship with the neighbouring residential properties.

The Council's Environmental Protection Manager raises no objection to the outdoor dining use of the area of the courtyard subject to the following planning controls being

imposed by conditions of the grant of planning permission: (i) any doors providing access to the outdoor dining area from the licensed premises shall be fitted with a self-closing mechanism; (ii) the outdoor dining area shall not be used by patrons other than between the hours of 1100 and 2100 on any day; and (iii) no amplified music and/or amplified speech shall be permitted in the outdoor dining area.

Subject to these controls the Council Environmental Protection Manager is satisfied that use of the outdoor dining area would not cause unacceptable harm to the amenity of the neighbouring residential properties as a consequence of noise nuisance and disturbance.

In the submitted application form, the applicant states that the proposed outdoor dining area would only operate between the hours of 1100 and 1800. However, as stated above, the Council's Environmental Protection Manager recommends that the outdoor dining area could operate without causing unacceptable harm to the amenity of the neighbouring residential properties provided that it operated between the hours of 1100 and 2100 on any day. Given this, there would be no justifiable necessity in restricting the hours of operation to between 1100 and 1800. Rather a condition should be imposed to restrict the hours of operation to between the hours of 1100 and 2100 on any day.

Use of the outdoor dining area would not allow for harmful overlooking of neighbouring residential properties.

On each of the foregoing considerations of privacy and amenity the use of the outdoor dining area does not conflict with Policy ENV1 of the adopted East Lothian Local Plan 2008.

There is no evidence to suggest that the use of the area of courtyard as an outdoor dining area would give rise to additional demand for on-street vehicle parking or be harmful to road safety. The Council's Road Services raise no objection to the application. Accordingly the proposal does not conflict with Policy T2 of the adopted East Lothian Local Plan 2008.

The application site is within an area identified by The Coal Authority as potentially being at risk from unrecorded mining related hazards and as such is within the defined Development Risk Area. However, the type and nature of the development proposed in this application is listed as exempt from the requirement (under Section 3.3 of The Coal Authority's Resources for Local Planning Authorities, version 3, 2014) to provide a Coal Mining Risk Assessment or for The Coal Authority to be consulted on it. However, in the interests of public safety an Informative Note regarding development within coalfield areas can be issued with the grant of planning permission.

CONDITIONS:

- 1 The outdoor dining area use approved by this grant of planning permission shall only be used by patrons and staff of the licensed premises between the hours of 1100 and 2100 any day of the week.

 Reason:
 To ensure that the use of the outdoor dining area does not harm the residential amenity of neighbouring or nearby residential properties.
- 2 There shall be no public entertainment, amplified music, amplified vocals or live music played in the outdoor dining area hereby approved and no amplified music, amplified vocals or live music played inside the premises shall be audible in the outdoor dining area.

Reason:

To ensure that the use of the outdoor dining area does not cause noise breakout from it harmful to the amenity of the neighbouring residential properties.

- 3 The outdoor dining area hereby approved shall not be used unless the existing doors in re-entrant east elevation of the building that are to be used to access the outdoor dining area have been made self closing. These doors shall remain self closing thereafter unless otherwise approved by the Planning Authority.

Reason:

To protect the amenity of neighbouring residential properties.

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)