

REPORT TO: Planning Committee

MEETING DATE: Tuesday 6 January 2015

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor Veitch for the following reason: Elected Members would benefit from a site visit due to the sensitivity of the locale

Application No. **13/00677/P**

Proposal Erection of 1 house, change of use of former amenity space to domestic garden ground and associated works

Location **Land Adjacent To Thornly
Thorntonloch
Dunbar
East Lothian
EH42 1QS**

Applicant GA and BB Ainslie

Per John A Fyall Building Eng Design

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The application site is in the countryside some 4.5 miles to the southeast of the town of Dunbar and some 2 miles to the east of the village of Innerwick.

The site measures some 5,480 square metres in area (some 0.548 of a hectare). It comprises of a large roughly rectangular shaped area of land, the main eastern part of the site, and a long narrow strip of land attached to the northwest corner of that larger area of land and which extends in a southwesterly direction, comprised of an existing access track. The main part of the site is a rough grass field formerly used as amenity ground. It accommodated dormitory buildings and was known as 'Doctor Guthrie's Camp Site'. The concrete pads of the footprints of the buildings are still visible towards the southwest side of the site. The land of the main eastern part of the application site slopes downwards towards the foreshore to the northeast, and towards a stream to the southeast. The land of the narrow strip of land comprising the access track slopes downwards at its southwest end towards the A1 Trunk Road to the west.

The application site is bounded to the northeast by the foreshore of the Firth of Forth, to the southeast in part by a stream beyond which is agricultural land and in part by vegetation of the foreshore, to the southwest in part by further agricultural land and in part by the A1 Trunk Road, and to the northwest in part by the residential house of Thornly and its garden ground and in part by further agricultural land. The application site is enclosed by post and wire fencing.

Access to the site is taken from the A1 Trunk Road via an existing vehicular access and private access track that serves the residential property of Thornly.

The John Muir Way public footpath passes along the route of the stream to the southeast of the application site and then extends along the foreshore to the northeast of the site.

The foreshore to the northeast of the site is within an Area of Great Landscape Value.

Due to its proximity to the foreshore and the Firth of Forth beyond, the site is immediately adjacent to the Fluvial Flood Risk envelope of the Indicative River and Coastal Flood Map (Scotland) as defined by the Scottish Environmental Protection Agency and may be at risk from flooding.

The site is also within the 4km radius consultation zone for Torness Nuclear Power Station.

On 23rd April 1991 planning application P/0529/90 was refused for the principle of the erection of two houses on the paddock to the southwest of the property of Thornly. The reason for refusal was that there was no justification for the houses on the ground of an agricultural or forestry need and that, if built, they would constitute sporadic development in the countryside and create a visually intrusive feature in the landscape, detracting from the character and amenity of the area, contrary to policies. At that time the paddock was within an Area of Great Landscape Value. The refusal to grant planning permission for application P/0529/90 was appealed to the Scottish Office Reporters Unit. The Reporter's decision in April 1992 was that there was no justification for the two houses on the grounds of an agricultural or forestry need and, if built, they would constitute sporadic development in the countryside and create a visually intrusive feature in the landscape, detracting from the character and amenity of the area, all contrary to policies.

Planning permission is now sought for the erection of one house, for the change of use of the former amenity space of the paddock to garden ground and for associated works. The proposed house would be used for living accommodation in association with the operation of the farming business at 3 Thorntonloch Cottages and Linkshead.

The associated works comprise the widening of the vehicular access onto the A1 Trunk Road and the formation of hardstanding areas in the form of driveway, parking and footpaths.

Since the application was registered it has been amended to: (i) provide additional drawings showing sections through the site; (ii) to correct errors in the scale of the drawings; (iii) to include the access track and access junction in the application site area; (iv) to show the widening of the junction of the access track with the A1 Trunk Road; (v) to increase the size of the visibility splay at the widened vehicular access on to the A1 Trunk Road; (vi) to provide visualisations for the view of the proposed house from the A1 Trunk Road; (vii) to identify the level of the site below which the land of the site may be at risk from flooding; and (viii) change the position of the access ramp on the southwest side of the proposed house. These changes are shown on amended and additional application drawings.

Since the application was registered it has been amended to have included within the application site the area of the existing access track between the main eastern part of the site and the A1 Trunk Road. This change is shown on revised and additional drawings submitted by the applicant's agent.

The inclusion of the access track within the application site was a significant change to the application and because of this the application was re-registered and re-advertised, and accordingly neighbours were again notified. Moreover, and as the shared access drive is not solely owned by the applicant, land ownership certification of the re-registered application was served by the applicant on the other owners of the land of the shared access drive. These owners are identified on the location plan for the application.

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) June 2013 and the adopted East Lothian Local Plan 2008.

Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) June 2013 and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP2 (Design), DP22 (Private Parking), T2 (General Transport Impact) and DP16 (Flooding) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application is the Scottish Government's policy on rural development and on flooding given in Scottish Planning Policy: June 2014 and Planning Advice Note 72: Housing in the Countryside.

Four written representations to the application have been received. They are all from the same property address. All of the representations raise objection to the proposed development. As summarised, the ground of objection are:

1. planning permission has previously been refused for the erection of a house on the site for the reasons that the Council had clear policies that would not permit sporadic development in the countryside, that there were concerns about the safety of the junction of the access road onto the A1 Trunk Road and that there is no provision for an additional septic tank in the area;
2. the proposed house would block views from the neighbouring house of Thornly and would result in the devaluation of that neighbouring property;
3. the proposed house would be likely to result in traffic congestion at the junction of the access road on to the A1 Trunk Road that would be harmful to road safety as the access is not wide enough for two vehicles to pass; and
4. there is an agreement between the Council and Torness Nuclear Power Station which disallows new residential buildings within a 3 mile radius of the Power Station.

The matter of the impact of the proposed development on the value of a neighbouring property is not a material planning consideration in the determination of an application for planning permission.

The loss of a view from a neighbouring property or location is not a material planning consideration in the determination of an application for planning permission.

The application site is in a countryside location within East Lothian and is part of a much larger area that is characterised by a low density dispersed built form within an agricultural landscape.

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

In Paragraph 76 of Scottish Planning Policy: June 2014 it is stated that Local Development Plans should make provision for most new urban development to take place within or in planned extension to existing settlements. Paragraph 81 states that in accessible or pressured rural areas, where there is a danger of unsustainable growth in long distance car based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate.

In Paragraph 83 it is stated that in remote rural areas, where new development can often help to sustain fragile communities, sustainable development that would provide employment and that would support and sustain fragile and dispersed communities through provision of appropriate development should be supported.

As is stated in paragraphs 2.10 and 2.11 of the adopted East Lothian Local Plan 2008 "East Lothian's countryside and undeveloped coast exhibits little need for regeneration, renewal or action to redress population decline. It is not a remote rural area where a more permissive planning policy approach to new housing in the countryside might be appropriate on these grounds. Rather it is an area where few, if any, locations are more than 1 hours travel time of Edinburgh and, on the whole, is characterised by increasing population and economic growth and a continuing pressure for housing development both within and outwith its towns and villages. Characteristic of the countryside is its wide range of types and sizes of attractive vernacular buildings that contribute greatly to its character." ... "For these reasons....new development, particularly housing, is directed to existing settlements. New development in the countryside is permitted only in the specific circumstances defined in Policy DC1."

Policy DC1 sets out specific criteria for new build housing development in the countryside. Part 1(b) of Policy DC1 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, provided that there is no suitable existing building for the required residential use.

Part 4 of Policy DC1 of the adopted East Lothian Local Plan 2008 requires that where an application for planning permission for the building of a new house in the countryside is made on a justification of need for the house to meet the operational requirement of an agricultural or other business use, the application must be accompanied by a statement justifying the direct operational requirement for the house.

Part 4 of Policy DC1 also states that where the Council is satisfied that a new house is justified by an operational requirement, it will be required that the applicant enter into a Section 75 legal agreement with the Planning Authority (i) to tie the proposed house to the business for which it is justified and (ii) to restrict the occupancy of the house to a person solely or mainly employed, or last employed, in that specific business, and their dependents. It further states that where an agricultural use that is not yet established seeks to justify an operational requirement for an associated house, the Council will

either grant temporary planning permission for temporary accommodation, or condition any consent such that permanent accommodation will only be permitted once the Council is satisfied that the agricultural use is established and that permanent accommodation is justified. In such situations the requirement for the above Section 75 legal agreement will then apply.

The application site is not identified in the adopted East Lothian Local Plan 2008 as being within a settlement and the Local Plan does not allocate the land of the site for housing development. The main material consideration in the determination of this application is therefore whether or not there is a direct operational requirement for the house that derives from an agricultural, horticultural, forestry or other employment use within the countryside.

In the case of this application a supporting statement has been submitted by the applicants.

In the supporting statement submitted with the application one of the applicants, Mr George Ainslie, states that the proposed house is for his son and his son's family. It is explained that his son works fulltime, usually seven days per week, as an integral part of the farming business at 3 Thorntonloch Holdings and Linkshead, and that during a significant part of the farming year he is required to be available at short notice, which is not possible as he lives in Dunbar. It is stated that his son is involved in important decision making for the farming business and his responsibilities will increase in future years.

It is further explained that the farming business of GA & BB Ainslie involves cattle, sheep, arable crops and contracting. The business was established by the applicant's father in 1962 and in the intervening years has been expanded to include over 500 acres. It is stated that the proposed house is required at this time for his son and, in the longer term, for future generations to enable the continuation and growth of the family business, and the occupation of the house will enable a young family to live and work in the local environment thus retaining and reinvigorating the rural community. It is stated that should planning permission be granted the Applicant is agreeable to the occupancy of the house being controlled through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997.

The existing farm business operates from 3 Thorntonloch Holdings approximately 1 mile to the west of the application site. At the Holdings is a general purpose agricultural building. The main farm steading is at Linkshead to the southwest of the application site where there are two cattle sheds, a general purpose agricultural building, a hayshed, workshop, machinery shed and various storage buildings.

There are no houses associated with the farm business that are not already occupied.

The Council's Agricultural and Rural Development Consultant has carried out a rural business appraisal of the proposed development based on a visit to the application site adjacent to Thornly and to the farm business locations of 3 Thorntonloch Holdings and Linkshead, an interview with the applicants and the son, and an assessment of their supporting statement and full financial accounts for all parts of the business and related interests of Messrs GA & BB Ainslie for 2010, 2011 and 2012.

The Council's Agricultural and Rural Development Consultant confirms that the land of the farming business of Messrs GA & BB Ainslie comprises of some 500 acres, with 382 acres in East Lothian and the remainder at Townhead Farm, Cockburnspath in Scottish Borders Council area. Of the land in the East Lothian area some 221 acres are owned by

the farming business and some 64 acres are rented. The main steading at Linkshead is accessed from the A1 Trunk Road. The applicant's mother, Mrs Ainslie, and his brother, Brian, together occupied the house at Linkshead until Mrs Ainslie's demise a year ago, leaving the house now occupied by the applicant's brother, Brian. Mr George Ainslie and his spouse live at 3 Thorntonloch Holdings.

The Council's Agricultural and Rural Development Consultant confirms that the application site for the proposed house lies some 0.5km to the northeast of Linkshead. She advises that the site has been selected owing to its proximity to the main farming activities and there are already services and access to the site. The site is a small paddock and its use would not result in the significant loss of agricultural land.

The Council's Agricultural and Rural Development Consultant advises that the land of the farming business comprises cereal and vegetable production, and livestock in the form of cattle and sheep. The farming business is also contracted for sprout waste disposal by nearby Drysdale vegetable processing unit. This process dovetails with the farm's main operations and enhances income, and the sprout waste is used for livestock feed, thus reducing feed and fodder costs. The sprout waste operation is a labour intensive winter operation from one vehicular lift per day to ten per day and intensifying to being on call for 24 hours per day around the Christmas period.

The business is structured as a partnership trading as Messrs GA and BB Ainslie, with the equal partners being the applicant, George A Ainslie and his brother, Brian Ainslie. It is proposed to introduce the son, Sandy Ainslie, to partnership and discussions with the applicants' accountant and solicitors are underway to effect the son's transition from employee status. George Ainslie has the main responsibility for farm management with his son assuming an increasing involvement. The systems of production for the farm business are modern and responsive to market requirement.

The full-time labour requirement of the farm business is currently met by the applicant, George Ainslie, his brother, Brian Ainslie and his son, Sandy Ainslie. They are assisted by Sheila Ainslie, spouse of Sandy, to carry out administrative duties. There are no other permanent employees but casual labour is employed at peak times such as lambing, shearing and for tractor work.

The Agricultural and Rural Development Consultant advises that the labour requirements of the farm are met only by the family members all working in excess of standard man days (SMD). The applicant's son, Sandy, has to travel between Dunbar and the farm, which is costly in terms of time and labour. Farm operational efficiency would be significantly improved by the removal of travel-to-work time for one of the farm's principals so that they would be on-hand to respond to crucial operations such as lambing and calving, and to be able to respond rapidly to the immediate needs of the sprout waste removal operation. The existing business needs a higher input from the applicant's son. The proposed house on the site adjacent to Thornly would reduce the travel time for the applicant's son, who currently lives in Dunbar and who would then be able to respond rapidly to livestock and other needs of the farming business.

Moreover, for health reasons the applicant's brother, Brian, does not generally manage the livestock, and the farm has a need for two active principal stock handlers to be on-site.

From all of this assessment, the Council's Agricultural and Rural Development Consultant concludes that: (i) the farm business as it operates in East Lothian is financially robust and capable of supporting a proposed house; (ii) the addition of another 24-hour on-site presence would enable the farm to meet its developing

operational needs; and (iii) this is a rapidly expanding mainstream farm business which could markedly increase its efficiency by having the applicant's son (soon to become a partner of the farm firm) residing on-site.

Some 22% of the land of the farm business at 3 Thorntonloch Holdings and Linkshead, known at this time as Messrs GA and BB Ainslie, is rented by the applicants. Notwithstanding this the Council's Agricultural and Rural Development Consultant concludes that the agricultural business operating on the basis of the remaining 78% of the land of the farm business at Linkshead and 3 Thorntonloch Holdings, is sufficient to justify an operational requirement for someone to live on the farm and thus to justify the principle of the building of the proposed new house on the farm.

With this operational justification of need for it, the principle of the building of a new house on the land adjacent to Thornly in association with the operation of the farm business at 3 Thorntonloch Holdings and Linkshead is consistent with Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008 and national planning policy guidance given in Scottish Planning Policy: June 2014.

As required by Part 4 of Policy DC1 of the adopted East Lothian Local Plan 2008 a grant of planning permission for the building of a new house in the countryside based on the Council's acceptance of an operational justification of need for it should be subject to the satisfactory conclusion of an agreement under the provisions of Section 75 of the Town and Country Planning (Scotland) Act 1997.

Thus in this instance a grant of planning permission for the proposed house has to be subject to the prior conclusion of a Section 75 Agreement designed to tie the house in ownership to the farm business operating at 3 Thorntonloch Holdings and Linkshead, known at this time as Messrs GA and BB Ainslie, and to restrict occupancy of the house to a person(s) solely or mainly employed in that farm business, and their dependants. Such an agreement would safeguard against the future independent sale of a new house.

Furthermore, owing to its size the area of agricultural land to be changed in use to residential garden ground for the proposed new house would be capable of accommodating a further house or houses. The principle of such other new build housing development without an operational justification of need for it would be contrary to Policy DC1 of the adopted East Lothian Local Plan 2008. Therefore, the Section 75 Agreement should also be designed to prevent any future erection of another house or houses on it. This would have the effect of safeguarding the purpose and integrity of the Council's policies for the control of new housing development in the countryside.

The applicants' agent has confirmed the applicants' willingness to enter into a Section 75 Agreement designed to secure both of these planning controls.

The proposed house would be predominantly one and half storeys in height with a dual pitched roof. The main one and a half storey part of the proposed house would have a rectangular footprint measuring some 21.5 metres long by some 6.4 metres wide. Attached to its southwest side elevation would be a single storey porch that would project some 2.5 metres away from that side elevation and would be some 3.3 metres wide and attached to its northeast (rear) elevation would be a single storey component that would project some 4.6 metres away from that elevation and would be some 5.8 metres wide. A 1.2 metres wide access ramp would be formed along the southern half of the southwest elevation.

The application drawings indicate that the dual pitched roof of the proposed house would be clad with slates, and that its external walls would be in part finished with painted render (harl) and in part finished with stone. The frames of its windows would be of timber construction with either a white painted finish or an alu-clad powder coated white finish.

The nearby houses vary in height between single storey, single storey with attic accommodation in their roof space and two storey in height. The predominant finishes for their external walls and roofs, respectively are natural stone or painted render and natural slate or red/brown tiles.

The proposed house would have a generally traditional form and appearance, similar to other single, one and a half and two storey houses in this part of East Lothian, and its palette of external finishes would be in keeping with the external finishes of the nearby houses. It would be positioned on the southwest half of the application site so that it would be roughly positioned on a similar alignment as the existing house of Thornly to the northwest of the site.

Due to its sloping nature, the land of the application site would be excavated to enable the proposed house to be set down into the site in order that its roof ridge height would not be any higher than that of the neighbouring single storey house of Thornly to the northwest of the site. Furthermore, as it would be set down into the site only the upper parts of its walls and its roof would be visible above the higher and rising land form that is between the application site and the A1 Trunk Road some 130 metres to the southwest. Due to the higher land form to the northwest of the site the proposed house would not be visible in public views from the A1 Trunk road when approaching from the northwest. Only the upper parts of the walls and the roof of the proposed house would be visible from the A1 Trunk Road in views when approaching from the southeast. The proposed house would also be visible in views from the foreshore to the northeast and southeast.

However, in such views from the A1 Trunk Road and the foreshore, the proposed house, due to its set down position on the site, would appear to be of a similar size and massing as the existing house of Thornly to the northwest of the application site. Furthermore, the existing land form gives some visual screening to the proposed house. In this context and seen as it would be alongside the existing house of Thornly, the proposed house would be integrated into the landscape in a manner compatible with its surroundings. By its height, size, scale, architectural form, finishes and positioning it would not appear harmfully intrusive, incongruous or exposed in its landscape setting. In their relationship with the proposed house and the setting of the application site neither would the proposed garden ground of the house, the footpaths, driveway, parking and turning areas. In all the proposed development, which would not be an overdevelopment of the site, would not be harmful to the character and appearance of the area.

Since 1991/1992 when planning application P/0529/90 was refused for the principle of the erection of two houses, the land of the site has been removed from the Area of Great Landscape Value designation. The Area of Great Landscape Value now stops at the edge of the foreshore to the northeast of the application site. Although the application site is no longer within the Area of Great Landscape Value it is immediately to the southwest of it. The proposed house would extend across less of the site than would the indicative drawings provided at the time of the appeal against the refusal of planning application P/0529/90. In its position the now proposed house, the upper parts of which would be visible from the A1 Trunk Road, would still allow views across almost three quarters of the site to the Area of Great Landscape Value beyond, of which only the sea is visible from the A1 Trunk Road. Moreover given its proposed position on the southwest half of the site the proposed house would also still allow views to the Area of

Great Landscape Value from the John Muir Way which passes to the southeast of the application site. In this context the proposed house and its associated garden ground and hardstanding areas would not be harmfully visually intrusive so as to detract from the landscape character and appearance of the Area of Great Landscape Value.

The land of the application site is a rough grass paddock with the concrete pads of former buildings on its southwest half. Thus, the development of the site would not result in any significant loss of prime agricultural land.

On these considerations of design and layout the erection of the proposed house and the formation of its associated garden ground and hardstanding areas on the application site are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) June 2013, Policies DC1 and DP2 of the adopted East Lothian Local Plan 2008 and with Scottish Government's policy on rural development given in Scottish Planning Policy: June 2014 and Planning Advice Note 72: Housing in the Countryside.

On the matter of the impact of the proposed house on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair. In its position and due to its height, orientation and distance away from the neighbouring property of Thornly to the northwest, the proposed house would not, in accordance with such guidance, give rise to harmful loss of daylight or sunlight to that house or its garden and therefore would not have a harmful affect on the residential amenity of that property. There are no neighbouring residential properties to the northeast, southeast or southwest. The proposed house should also receive a sufficient amount of daylight (skylight) and its garden a sufficient amount of sunlight.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

There are no neighbouring residential properties to the northeast, southeast or southwest. Thus, the windows, glazed doors and roof windows of the proposed house would not allow for harmful overlooking of any property to the northeast, southeast or southwest of the application site.

None of the windows of the northwest elevation of the proposed house would be within 9 metres of the northwest boundary of the application site and nor would the windows be within 18 metres of the windows and glazed doors of the southeast elevation wall of the house of Thornly. Thus, the windows of the northwest elevation of the proposed house would not allow for harmful overlooking of the neighbouring house of Thornly to the northwest of the application site.

Because of the proximity of the application site to the A1 Trunk Road to the southwest, the Council's Environmental Protection Manager raises concerns that noise from road traffic on the A1 may result in a loss of amenity to the occupiers of the proposed house. Thus, the Council's Environmental Protection Manager advises that the glazing of the windows of noise sensitive rooms (bedrooms and living rooms) on the southwest and southeast elevations of the proposed house that would face towards the A1 Trunk Road should be fitted with 6/12/6 or equivalent double glazing units and trickle vents. This

matter can be controlled by a condition attached to a grant of planning permission. Subject to the aforementioned control the Council's Environmental Protection Manager is satisfied that the occupiers of the proposed house would not suffer a loss of amenity from road traffic noise and thus raises no objection to the proposed development.

Subject to the aforementioned control being imposed the occupiers of the proposed house would benefit from an acceptable standard of privacy and amenity.

On the forgoing consideration of sunlight, daylight, privacy and amenity the proposed development is consistent with Policies DC1 (Part 5) and DP2 of the adopted East Lothian Local Plan 2008.

Vehicular access to the proposed house would be taken from the A1 Trunk Road via the existing private access track that serves the existing house of Thornly. Access to the application site from the private access track would be taken via an existing field gate opening towards the northwest corner of the main part of the site. Parking for the proposed house would be provided in the form of a driveway that would be to the southwest and northwest of the proposed house.

Transport Scotland and the Council's Roads Services advise that the junction of the existing access track with the A1 Trunk Road is narrow and is only wide enough for one vehicle to enter or leave the junction. The additional vehicle movements associated with a new house built on the application site would increase the chance that vehicles would be entering and leaving the access track junction at the same time. As two vehicles cannot enter and leave the access track junction at the same time this would be hazardous to road safety with the potential for a vehicle stopping on the A1 Trunk Road which has a 60mph speed limit. Thus, Transport Scotland and Roads Services advise that there is a requirement that the existing access track junction with the A1 Trunk Road should be widened to accommodate the 2-way movement of vehicles.

Transport Scotland advise that the width of the access track junction with the A1 Trunk Road should be increased to a minimum of 5.5 metres wide for a distance of 10 metres measured back from the nearest edge of the trunk road carriageway, that the gradient of the access track should not exceed 1 in 40 for a distance of 5 metres measured back from the nearest edge of the trunk road carriageway, the first 5 metres of the access track should be hard surfaced with a bituminous surface and measures should be adopted to ensure that all drainage from the site does not discharge on to the trunk road and a visibility splay measuring 4.5 metres by 215 metres should be provided to the northwest and southeast sides of the widened vehicular access.

The application drawings have been amended to show the widening of the access junction of the private access track with the A1 Trunk Road, the hard surfacing of the first 5.5 metres, the gradient of the access track at its junction with the trunk road, and the provision of the visibility splay.

After assessing the amended drawings, Transport Scotland and the Council's Road Services are satisfied that, subject to conditions being imposed requiring the widening of the access junction of the private access track with the A1 Trunk Road, the hard surfacing of the first 5.5 metres of it, the gradient of the access track and the visibility splay all being formed all in accordance with the application drawings the proposed house would be provided with a safe means of vehicular access. These matters can be controlled by a condition attached to a grant of planning permission for the proposed development.

The Council's Roads Services are satisfied that a sufficient provision of on-site parking would be provided for the proposed house.

Subject to the aforementioned planning controls the proposed house would be provided with a safe means of vehicular access and a sufficient standard of on-site parking, and thus does not conflict with Policies DP22 and T2 of the adopted East Lothian Local Plan 2008.

The proposed development would not have a harmful impact on the John Muir Way public footpath that passes to the southeast and northeast of the site or the users of that footpath.

In respect of the potential for flood risk at the site the Scottish Environment Protection Agency advises that subject to there being no development below the level of 3.83 metres AOD they raise no objection to the proposed development. The Council's Manager for Structures, Flooding and Street lighting agrees with this recommendation. This matter can be controlled by a condition attached to a grant of planning permission for the proposed development. Subject to this planning control the proposed development would not be at risk from flooding and would not have a harmful impact on flood water dispersal in the area, and thus does not conflict with Policy DP16 of the adopted East Lothian Local Plan 2008 or with Scottish Government's guidance on flooding given in Scottish Planning Policy: June 2014.

The site is also within the 4km radius consultation zone for Torness Nuclear Power Station. The Office of Nuclear Regulation (ONR) has been consulted on the application and advises that the proposed development would not have an adverse impact on the ability of the responding agencies to implement the Torness Off-Site Plan in the event of a nuclear emergency and thus raise no objection to the proposed development. Thus, the proposed development does not conflict with Policy NRG2 of the adopted East Lothian Local Plan 2008.

On the matter raised by an objector that there is an agreement between the Council and Torness Nuclear Power Station which disallows new residential buildings within a 3 mile radius of the Power Station, no evidence of such an agreement has been presented. The Council's Legal Services and Emergency Planning and Risk Manager advise that they are not aware of any such agreement.

Scottish Water has been consulted on the application however no response has been received from them.

Matters of water supply, sewage treatment and surface water drainage can be controlled through legislation other than planning legislation.

The grant of planning permission is subject to the prior conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 designed to: (i) tie a house erected on the application site in ownership to the farm business operating at 3 Thorntonloch Holdings and Linkshead, presently known as GA and BB Ainslie, and to restrict occupancy of such a house to a person(s) solely or mainly employed in that business, and to their dependants; (ii) to prevent the erection of any other house(s) on the land of the application site in order to safeguard the purpose and integrity of the Council's policies for the control of new housing development in the countryside.

In accordance with the Council's policy on time limits for completion of planning agreements the decision also is that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six

months of the decision taken on this application, the application shall then be refused. The reason for refusal being that without an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, restricting the proposed house being tied in ownership and occupancy to the farm business of GA & BB Ainslie operating at Linkshead and 3 Thorntonloch Holdings, and preventing the erection on the land of the application site of any more than the one proposed new build house, development of the site would be contrary to Policy DC1 of the adopted East Lothian Local Plan 2008, and national planning policy guidance given in Scottish Planning Policy: June 2014.

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 There shall be no development on the site below the level of 3.83 metres AOD as set out in docketed drawing nos. 83/165/2/P/02/Rev.B and 83/165/2/P/08/Rev.B unless otherwise approved by the Planning Authority in consultation with the Scottish Environment Protection Agency.

Reason:

In the interest of the prevention of flood risk.

- 3 Prior to the occupation of the house hereby approved the junction of the private access track with the A1 Trunk Road shall be widened to a minimum of 5.5 metres wide for a distance of 10 metres measured back from the nearest edge of the trunk road carriageway, in accordance with the details shown for it on docketed drawing nos. 83/165/2/P/010/Rev.A and 83/165/2/P/011, and the parking and turning areas shown on docketed drawing nos. 83/165/2/P/02/Rev.B and 83/165/2/P/07 shall have been formed and thereafter the widened access, parking and turning areas shall be retained for such uses unless otherwise approved in advance by the Planning Authority.

Prior to any use being made of the widened access with the A1 Trunk Road a minimum of the first 5 metres of the access and the access track measured from the back edge of the adjacent trunk road carriageway and for the full width of the access and access track shall be hardsurfaced with a bituminous surface and thereafter retained as such.

Prior to any use being made of the widened access a visibility splay measuring 4.5 metres by 215 metres shall be provided to the northwest and southeast sides of the widened access junction such that no obstruction lies within the visibility splay above a height of 1.05 metres measured from the surface of the adjacent trunk road carriageway.

The gradient of the access track shall not exceed 1 in 40 for a distance of 5 metres measured from the nearest edge of the trunk road carriageway.

Measures shall be adopted to ensure that all drainage from the site does not discharge onto the trunk road carriageway.

Reason:

To ensure that adequate and satisfactory provision is made for access, parking and turning in the interests of road safety and to ensure water run-off from the site does not enter the trunk road.

- 4 A schedule of materials and finishes and samples of such finishes, including colours, for the walls, roof, windows and doors of the house hereby approved and for the surface of the hard standing areas also hereby approved shall be submitted to and approved in writing by the Planning Authority prior to the use of the finishes in the development.

The slate to be used to clad the roof of the house hereby approved shall be natural slate.

Thereafter, the materials and finishes used in the development shall accord with the schedule and samples of them so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area.

- 5 Prior to the occupation of the house hereby approved, the windows of any noise sensitive rooms (bedrooms and living rooms) of the southwest and southeast elevations of the house shall be fitted with double glazed windows of 6mm float glass - 12mm cavity - 6mm float glass and acoustic trickle vents or equivalent in accordance with details to be submitted for the written approval of the Planning Authority prior to the installation of the windows. Such acoustic glazing shall thereafter be retained in the windows of the house unless otherwise approved by the Planning Authority.

Reason:

In the interests of protecting the residential amenity of the occupiers of the house to be erected on the site from noise from the nearby A1 Trunk Road.