

REPORT TO: Planning Committee

MEETING DATE: Tuesday 30 June 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 Goodfellow for the following reasons: The proposed housing element is contrary to policy BUS1 of the adopted Local Plan 2008.

Application No. **14/00868/P**

Proposal Erection of 41 flats, business units (class 4 use) and associated works

Location **Site At Tantallon Road/Heugh Road
North Berwick
East Lothian
EH39 5NF**

Applicant McCarthy and Stone

Per The Planning Bureau Ltd

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The application site occupies a prominent corner location adjacent to the roundabout junction of Heugh Road and Tantallon Road. It forms part of the Tantallon Road Industrial Estate. The majority of the site is occupied by a detached building, known locally as the Ben Sayers factory. The walls of the building are largely brick built with sections of harling. The main frontage faces northwards. The roof is clad in profiled cladding and consists of seven pitched bays. Internally the building is subdivided. The building is currently vacant.

The building is served by a small car park, which is immediately to its east, and which is accessed from Heugh Road via an internal access road that also serves other businesses within the Tantallon Road Industrial Estate. There is a grassed area of ground immediately to the north and west of the existing building. 3 cherry trees are located on the grassed area to the north of the existing building.

The Glen walkway and woodland extend along the north side of Tantallon Road opposite the site. Partly to the north and east of the site is the First Bus depot. Otherwise the site is

bounded to the east by Tantallon Road cemetery, to the south by a garage building and its car parking and to the west by Heugh Road, on the other side of which are residential properties. The site is generally flat.

In July 2006 planning permission (06/00751/FUL) was sought by Lidl UK for the erection on the application site of a Class 1 retail unit (supermarket), and for the formation of car parking, a vehicular access and associated works. In September 2008 the Planning Committee refused planning permission 06/00751/FUL, for the reasons that (i) The proposed supermarket development would result in the loss of business land that is part of the business land supply of North Berwick to the detriment of East Lothian's economy and the greater Lothian economy; and (ii) If approved the proposed development would set an undesirable precedent for the development of new retail stores and other uses not within Class 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 on land elsewhere in East Lothian that is allocated for such business and industrial uses, the cumulative effect of which would be the depletion of Council's supply of allocated land for business and industrial use to the detriment of the economy of East Lothian and the greater Lothian economy.

In March 2011 planning permission (Ref: 10/00689/P) was granted for alterations to, and the change of use of most of the building from office and storage uses (uses within Class 4 and Class 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997) to a mixed use facility encompassing leisure and training uses (uses within Class 10 and Class 11 of the Town and Country Planning (Use Classes) (Scotland) Order 1997), for a temporary period of 5 years. The temporary leisure and training facility use of the building, known as 'theSpace', ceased in March 2015.

Planning permission is now sought for the erection of 41 flats, 4 business units (Class 4 use) and associated works on the application site. The existing building would be demolished to accommodate the proposed development. Demolition of the existing building does not require planning permission and therefore does not form part of this planning application.

The building containing the proposed 4 business units would have a rectangular footprint and would be positioned at the southern end of the application site. It would be two storeys in height and would have a flat roof. Its principal elevation would face southwards. Each business unit would have 2 floors of accommodation. The ground floor walls and the walls of the southwest corner of the proposed building would be finished in a buff coloured facing brick. The remainder of the walls of the building would be finished in white coloured render. The frames of the windows would be of grey coloured aluminium construction. Roller shutters of metal construction could be installed within the ground floor openings on the southern elevation of the proposed building. A 1.8 metre high timber fence would be erected some two metres to the north of most of the building.

Vehicular access to the business units would be taken from Heugh Road via the internal access road that also serves other businesses within the Tantallon Road Industrial Estate. A total of 22 car parking spaces would be provided within the car park that is immediately to the east of the existing building.

The remainder of the site would accommodate the flatted component of the proposed development. The proposed building containing the 41 flats would have an L-shaped footprint. It would be contained within landscaped gardens. It would be three storeys in height with pitched and gabled roofs clad in a grey coloured clay tile. The walls of the flatted building would be finished with white and ivory coloured render and would incorporate some sections of buff coloured reconstituted stone. The frames of the windows would be of grey coloured UPVC construction.

Vehicular access to the flats would be taken from Heugh Road via a new access positioned some 23 metres to the north of the access to the Tantallon Road Industrial Estate. An internal access road and a total of 29 parking spaces serving the flats would be formed to the north of the proposed business units. A total of 22 car parking spaces would be provided within the car park that is immediately to the east of the existing building. A reconstituted stone wall would be erected along most of the northern and western boundaries of the application site.

The proposed flatted building would be set within landscaped grounds. All of the existing trees on site would be removed to facilitate the proposed development.

The applicant's agent confirms in writing that the proposed flats would all be specialised retirement housing for the elderly.

A planning statement, financial viability report, design and access statement, site investigation report, drainage statement, tree survey, pre-application consultation report, transport statement, housing and care needs report and environmental noise assessment have all been submitted in support of this planning application.

In April 2015 the applicant submitted revised drawings showing a change in the design of the northwest corner of the proposed flatted building. All relevant neighbour re-notifications, re-advertisements in the press and re-consultations in respect of this change have been duly undertaken.

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 BUS1 (Business and General Industrial Locations), H1 (Housing Quality and Design), DP1 (Landscape and Streetscape Character), DP2 (Design), T2 (General Transport Impact), DP17 (Art Works- Percent for Art), DP20 (Pedestrians and Cyclists) and DP22 (Private Parking) of the adopted East Lothian Local Plan 2008.

A material consideration in the determination of this application is the national planning policy given in Scottish Planning Policy: June 2014.

It is stated in Scottish Planning Policy: June 2014 that local development plans should allocate a range of sites for business, taking account of current market demand; location, size, quality and infrastructure requirements; whether sites are serviced or serviceable within five years; the potential for a mix of uses; their accessibility to transport networks by walking, cycling and public transport and their integration with and access to existing transport networks. The allocation of such sites should be informed by relevant economic strategies and business land audits in respect of land use classes 4, 5 and 6. Business land audits should be undertaken regularly by local authorities to inform reviews of development plans, and updated more frequently if relevant. Business land audits should monitor the location, size, planning status, existing use, neighbouring land uses and any significant land use issues (e.g. underused, vacant, derelict) of sites within the existing business land supply. New sites should be identified where existing sites no longer meet current needs and market expectations. Where existing business sites are

underused, for example where there has been an increase in vacancy rates, reallocation to enable a wider range of viable business or alternative uses should be considered, taking careful account of the potential impacts on existing businesses on the site.

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.

Paragraph 132 of Scottish Planning Policy states that as part of the Housing Need and Demand Assessment, local authorities are required to consider the need for specialist provision that covers accessible and adapted housing, wheelchair housing and supported accommodation, including care homes and sheltered housing. This supports independent living for elderly people and those with a disability. Where a need is identified, planning authorities should prepare policies to support the delivery of appropriate housing and consider allocating specific sites.

Also material to the determination of this application is the Development Guidelines: 1 Tantallon Road, North Berwick, which were approved by the Council in December 2011.

Two written representations have been received. Both of them make objection to the proposed development on the grounds that:

- (i) North Berwick does not need another block of expensive retirement homes;
- (ii) The proposals do not include an element of affordable housing;
- (iii) Insufficient car parking is proposed to serve the proposed flats;
- (iii) The housing proposals should be rejected in favour of more modest affordable homes of which there is a big shortage in North Berwick; and
- (iv) The north facing windows of the proposed business units may potentially be a source of noise that could be a nuisance to future residents of the proposed flats.

One of the written representations does however welcome the provision of some business units.

The Royal Burgh of North Berwick Community Council raise no objection to the proposed retirement housing, advising that the proposed change in the design of the northwest corner of the proposed building is welcomed and supported. They do however request that the existing cherry trees be retained.

The application site forms part of a larger area of business and industrial land that is covered by Policy BUS1 of the adopted East Lothian Local Plan 2008. Policy BUS1 presumes in favour of business, industrial and storage uses that fall within Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Policy BUS1 states that waste management facilities may also be permitted if they are compatible with employment use. Otherwise Policy BUS1 states that development that does not fall within these classes will not normally be permitted, with the exception of retail activity that is directly related and ancillary to a business or industrial process carried out on the site.

The applicant confirms that the part of the application site proposed by them for business use would be used for purposes within Class 4 of the Town and Country Planning (Use

Classes)(Scotland) Order 1997. The proposed business use of part of the application site is consistent with Policy BUS1 of the adopted East Lothian Local Plan 2008.

Residential use falls within Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Policy BUS1 of the adopted East Lothian Local Plan 2008 does not give any support to residential uses on any part of the application site. The housing element of the proposed development would be sited on and thus would result in the loss of land within the application site that is allocated for business and industrial use as part of the Tantallon Road Industrial Estate to meet part of an identified need for business land in East Lothian. Such business land is required to enable and sustain the economy of East Lothian and of the Lothians.

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

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

A material consideration in the determination of this planning application is the Development Guidelines: 1 Tantallon Road, North Berwick, which were approved by the Council in December 2011.

The approved Guidelines acknowledge that the former factory at 1 Tantallon Road is under used and no longer fit for modern business. There is however, some demand for a different type of business unit, of a smaller floor space within a modern flexible unit. There remains a need to provide local employment within North Berwick and therefore the approved Guidelines state that it is important to ensure that this designated employment site provides local jobs located in modern units that are capable of attracting businesses.

The approved Guidelines accept that to redevelop the site by demolishing the existing factory and constructing new business space would incur substantial cost and would be likely to require phasing over a significant period of time. Permitting a mixed use development may help to achieve the redevelopment of the whole site in a quicker timescale. Introducing some housing on the site in addition to the business development could help to bring forward the necessary development finance for the clearance of the site and the construction of new business units. Such a development would facilitate a positive change in the appearance of the townscape of North Berwick whilst at the same time encouraging business and employment opportunities on the town's industrial estate.

It is also stated in the approved Guidelines that such a mixed use scheme will only be permitted in the context of the redevelopment of the entire site to ensure that the whole area is regenerated at the same time. The prime objective is to ensure the delivery of high quality business units and therefore employment on the site. It would be preferable for the entire development to be completed at the same time, but if this is not possible the business units should be available for occupancy before any of the affordable housing is occupied to ensure that the business units are delivered and future residents do not live in a building site.

The current East Lothian Council Local Housing Strategy identifies North Berwick as a priority area of demand for affordable housing. There is currently a lack of available sites within North Berwick to meet affordable housing demand. For this reason, the approved Guidelines state that the site is considered to be a suitable windfall site, as part of a redevelopment opportunity, to help to achieve the twin objectives of new modern

employment opportunities and new housing to meet the demonstrable local need for affordable housing. The approved Guidelines states that market housing for sale will not be permitted on the site.

The proposed 41 flats would not be affordable housing. Rather they would all be specialised retirement housing for the elderly. As a form of market housing for sale, the proposed 41 flats are therefore contrary to the approved Guidelines for the site.

Notwithstanding this, it is necessary to consider whether there are material considerations in this case that outweigh this element of the approved Guidelines for the site.

The applicant's financial viability report advises that East Lothian Council and Registered Social Landlords were approached by the site vendor to establish demand for an affordable housing development on part of the site. Due to limited financial resources and no public subsidy available the Report informs that the Council declined the opportunity. In addition the Report informs that the Registered Social Landlords declined the opportunity as finance could not be raised to fund the development.

Notwithstanding what is stated in the applicant's financial viability report, the Council's Team Manager for Strategic Investment & Regeneration confirms that the Council did not decline the opportunity to deliver affordable housing on this site. Rather, the Council did not advance this opportunity as the developers costs were too high, mainly due to the high land value that they were presenting. Registered Social Landlords had also experienced the same issue.

The applicant's financial viability report concludes that the provision of modern business units would be viable with the proposed retirement housing.

At the Planning Authority's request the District Valuer has carried out an independent assessment of the applicant's financial appraisal and the case they make for a retirement housing development of part of the site.

The District Valuer advises that there are various tenures suitable for affordable housing that would meet with the Council's affordable housing policy. However, these typically require subsidy, or, where they are market led, require the disposal price to be restricted and therefore do not provide any opportunity for generating a profit that could be used for cross-subsidy. The District Valuer therefore advises that on site affordable housing would not be able to cross-subsidise any form of development.

Given this advice, and given that the approved Guidelines state that the prime objective is to ensure the delivery of high quality business units and therefore employment on the site, it is necessary to consider whether another form of housing development could be used to cross-subsidise the proposed business units.

On this matter, the District Valuer advises that he is satisfied that the proposed retirement housing would be capable of cross-funding the development of the proposed business units.

The Council's Business Development Team Leader advises that he raises no objection to the proposal from a business development perspective. He does however recommend that the four business units should be fully constructed and available for occupancy prior to any occupation of the proposed flats. This recommendation, which is consistent with the approved Development Guidelines for the site, can be controlled through a condition attached to a grant of planning permission.

The applicant's financial viability report stated that the applicant did not consider that there should be an affordable housing contribution in this case, as the proposed development would not then be financially viable. In his financial appraisal of the proposed development, the District Valuer advises that the Gross Development Values used in the applicant's financial viability report are understated. In this regard, the applicant has valued the proposed 1 bedroom flats at £190,000 and the 2 bedroom flats at £275,000. In the current market, the District Valuer advises that he would anticipate a value of around £200,000 for the proposed 1 bedroom flats and £300,000 for the proposed 2 bedroom flats. This increases the Gross Development Value of the proposed development, thus generating a surplus. In view of this, the District Valuer advises that a commuted sum payment of £430,000 could be made towards the provision of affordable housing, without the proposed development becoming financially unviable. This payment, he advises, equates to a commuted sum in lieu of 25% of the flats (i.e. 10 flats) being affordable housing.

Following this, the applicant has reconsidered their earlier position and has now offered a commuted sum payment of £430,000, in lieu of an on or off-site affordable housing provision. This offer is made on the basis that this payment is phased on the basis that the first instalment is paid on the occupation of the first flat, the second instalment is paid on the sale of the 22nd flat, and the third instalment is paid on the sale of the 35th flat.

The Council's Team Manager for Strategic Investment & Regeneration agrees with the District Valuer's conclusion that 100% on site affordable housing would not be able to cross-subsidise any form of development. She does however advise that an affordable housing contribution may be able to be provided on or off site. If it can be demonstrated to the Council that this, or an off-site provision is not practicable, then the commuted sum payment should be made to the Council in lieu of such an on or off-site provision. The terms for the provision of this affordable housing requirement should be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements.

The prime objective of the approved development guidelines is to ensure the delivery of high quality business units and therefore employment on the site. Through the approval of the development guidelines the Council has already accepted the principle of the development on part of the application site of affordable housing to cross fund the delivery of business units. However the District Valuer has confirmed that on site affordable housing would not be able to cross-subsidise any form of development. He has further confirmed that the proposed retirement housing would be capable of cross-funding the development of the proposed business units. The material considerations of allowing retirement housing on the larger part of the site to secure the delivery of business units and the affordable housing contribution outweigh the policy and development guideline presumption against the element of retirement housing proposed in this application.

The proposed development would be redevelopment of a brownfield site since it would replace an existing building to be cleared from the site. As the site is within the urban area of North Berwick the proposed redevelopment would be urban infill housing development. Therefore the principle of the proposed development is supported by Policy DP7 of the adopted East Lothian Local Plan 2008.

With respect to infill, backland and garden ground development Policy DP7 of the adopted East Lothian Local Plan 2008 states that, amongst other principles of development, it must, by its scale, design and density be sympathetic to its surroundings and not be an overdevelopment of the site.

Policy DP2 of the adopted East Lothian Local Plan 2008, amongst other things requires that all new development must be well designed and integrated into its surroundings.

The application site is readily visible from public views, which are principally from Dunbar Road, Heugh Road and Tantallon Road. It is located within an area that contains buildings that are of a variety of size, form and architectural styles. Immediately to the east of the site is a large detached utilitarian building that is in use as a First Bus depot. To the south of the site is a single storey building that is designed for the functionality of its use as a car garage. To the west of the site, on the other side of Heugh Road, are residential properties that, with their natural stone walls and pitched roofs clad with slate, are of a traditional architectural design.

Consistent with the requirements of the approved guidelines, the proposed housing would be positioned to the north and west of the site and orientated towards Tantallon Road and Heugh Road respectively. A corner feature has been added between its north and west parts to act as a focal point for the proposed building. The proposed business units have been positioned on the southern part of the site and orientated towards the existing Heugh Road industrial estate access road. This again is consistent with the requirements of the approved guidelines.

The proposed flatted building would not, by its size, height and massing be out of keeping with those nearby buildings or with the variety of architectural style of the other buildings in the locality. It would not appear intrusive or incongruous in its gateway location at the junction of Heugh Road and Tantallon Road. There would be a contrast between the design of the proposed flatted building and the design of the utilitarian building it would replace, and the designs of other buildings within this part of North Berwick. Nevertheless it would sensitively reflect elements of and be complimentary to the existing variety of built form within the setting of the application site. In this regard, the cast stone to be used for some of the walls of the building should not be a buff colour. It should instead be a darker, red colour to reflect the red stone wall of the boundary wall and of the residential properties to the west of the site. Moreover, to reduce the prominence of the building, a darker colour of render should be used than the white coloured render that is proposed by the applicant. Although the proposed flatted building would appear distinctive, it would nonetheless add architectural interest to the area, which is characterised by a variety of buildings of a range of ages, architectural styles and external finishes. The proposed flatted building is well designed for its proposed place, would be an acceptable replacement for the existing building, and would not harm the character and appearance of the area.

The proposed business units are designed for the functionality of their intended use. Nevertheless, they would be seen in relation to the existing industrial estate and would be appropriately designed for their location. They would not harm the character and appearance of the area.

In their well contained position to the side and rear of the proposed buildings the proposed car parking spaces, vehicular access and turning area, cycle parking, buggy store, boundary enclosures and other associated works would not generally be an intrusive, incongruous or exposed form of development in association with the proposed flats and business units. They would not generally have a harmful affect on the streetscape or on the character and appearance of the area. The only exception to this is the proposed 3.5 metres high acoustic fence. The acoustic fence would be positioned close to the eastern edge of the site. It has been designed to attenuate noise from the bus depot. For the most part the acoustic fence would be seen against the backdrop of the bus depot building. However the section of the fence that would be forward of the bus depot building would appear as a prominent and incongruous feature, harmful to the

amenity of the area. The part of the acoustic fence forward of the bus depot building should therefore be no higher than the adjacent stone boundary wall. This matter can be controlled by a conditional grant of planning permission for the proposed development. The Council's Environmental Protection Manager is satisfied that even were the front part of the acoustic fence to be reduced in height then it would still satisfactorily attenuate noise from the bus depot.

The site is capable of accommodating all of the proposed development including satisfactory vehicular and pedestrian access and amenity space without being an overdevelopment of it. The proposed development would not be of a density incompatible with existing densities of development in the locality. Development of the site would not result in any loss of open space important to recreation or amenity requirements.

On all of these considerations the proposed flatted building, business units and associated components of the proposed development are, in detail, consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and with Policies DP2 and DP7 of the adopted East Lothian Local Plan 2008.

Given their heights, positioning and orientation the proposed flatted building, business units would not give rise to significant harmful loss of sunlight or daylight to any neighbouring residence or garden.

It is the practice of the Council to consider a distance of 18 metres between directly facing windows and 9 metres between a window and a garden boundary as a sufficient separation distance to prevent harmful overlooking of neighbouring residential properties from proposed new buildings.

By virtue of their positioning and distance away from any neighbouring property, the windows and other glazed openings to be formed in the elevations of the proposed development meet those required separation distances and would not lead to harmful overlooking of any neighbouring residential building or private garden. The occupiers of the proposed flats would also benefit from a sufficient level of privacy and residential amenity.

A noise impact assessment has been submitted in support of the planning application. The assessment assesses the impact of the proposed business units on the amenity of the nearby residential properties on Heugh Road and on the amenity of the proposed flats. It also assesses the impact of existing business nearby on the amenity of the proposed flats. It concludes that mitigation measures would be required to ensure that the amenity of existing properties is not harmed and that occupiers of the proposed flats would also benefit from a sufficient level of residential amenity. The recommended mitigation measures consist of (i) the erection of a 3.5 metres high solid timber acoustic fence between the bus depot and the proposed retirement flats part of the development; (ii) the installation of acoustic glazing within the windows of the proposed flats; and (iii) limits placed on the maximum permissible noise levels of any plant within the proposed business units.

The noise impact assessment has been reviewed by the Council's Environmental Protection Manager, who agrees with its findings. He raises no objection to the proposed development, being satisfied that the proposed business units could operate without harm to the privacy or amenity of nearby residential properties and that the proposed flats would also benefit from a sufficient level of residential amenity. He does however recommend that the mitigation measures set out in the applicant's noise impact assessment should be fully complied with. These recommended controls could be

secured by a conditional grant of planning permission for the proposed development.

On these considerations of privacy and amenity the proposed development is consistent with Policies DP2 and DP7 of the adopted East Lothian Local Plan 2008.

The Council's Contaminated Land Officer is satisfied that no contamination issues have been identified on site. He suggests that additional investigations should be carried out once site demolitions have been completed in order to confirm the ground conditions and also to enable sampling and testing for waste classification.

It is proposed to remove all of the existing trees on site, including the Japanese cherry trees. The Council's Landscape Projects Officer raises no objection to the proposed development, advising that the proposed planting of narrow fastigiated trees along the northern and western edges of the site would adequately compensate for the removal of the existing trees. She further advises that the proposed planting plan should provide an appropriate setting for the proposed development.

The building the subject of this application is served by a small car park, which is immediately to its east, and which is accessed from Heugh Road via an internal access road that also serves other businesses within the Tantallon Road Industrial Estate. The car park has the capacity for 18 cars to park on it. Access is also taken through this car park by buses accessing the adjacent First bus depot. The application site fronts onto the public roads of Heugh Road and Tantallon Road. There is unrestricted on-street parking provision on both of those public roads.

The Council's Road Services raise no objection to the proposed development, advising that the proposed arrangements for vehicular and pedestrian access, parking and turning are of an acceptable standard, subject to the use of the flats proposed being controlled for use by occupiers over 55 years. They are also satisfied that the existing road network is of an adequate standard to cope with the traffic levels likely to arise from the proposed development.

Roads Services advise that details of the new vehicular access onto Heugh Road, including visibility splays, should be submitted to and approved by the Planning Authority. They also advise that the existing footways to the north and west of the site should be widened to 2 metres. They further advise of the need for a Construction Method Statement to minimise the impact of construction activity on the amenity and road safety of the area. Cycle parking should be provided on site. Additionally a quality/safety audit should be undertaken to improve crossing opportunities over Tantallon Road and Heugh Road to enable the site to be accessible to local facilities and communities in the area as well as access to public transport provision. The audit should also investigate whether crossing opportunities over Heugh Road would benefit from the narrowing of the road carriageway.

Subject to the controls alluded to above the proposed development is consistent with Policies DP22 and T2 of the adopted East Lothian Local Plan 2008.

The Scottish Environment Protection Agency raise no objection to the proposed development, although they recommend that the proposed private foul drainage system is designed such that it could easily be connected to the public sewer and that it must be connect to the public system once this becomes available. This can be secured by a condition on a grant of planning permission for the proposed development.

Scottish Water were consulted on this planning application but have not provided a consultation response.

The proposed development by its scale would have a significant impact on the local environment and thus in accordance with the requirements of Policy DP17 of the adopted East Lothian Local Plan 2008 it should incorporate artwork either as an integral part of the overall design or as a related commission. This can be secured by a condition on a grant of planning permission for the proposed development.

The grant of planning permission for the proposed development requires to be subject to the prior conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 designed to secure from the applicant the provision of an on site affordable housing contribution equivalent to £430,000. Only if it can be demonstrated to the Council that this, or an off-site provision equivalent to £430,000 is not practicable, then a commuted sum payment of £430,000 shall be made to the Council in lieu of such an on or off-site provision.

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 for the reason that:

1. Without the Council securing from the applicant through an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 an affordable housing contribution equivalent to £430,000, the proposed development would not provide towards any affordable housing provision, and is contrary to the Development Guidelines: 1 Tantallon Road, North Berwick, which were approved by the Council in December 2011.

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 planning permission, the buff coloured cast stone and the white coloured render to be used in the walls of the flatted building are not hereby approved. Instead the cast stone shall be a red colour to match the red stone of the existing stone boundary wall and the white coloured render shall be of a darker colour. Samples of the materials to be used as external finishes of the flatted building, including the cast stone and render, shall be submitted to and approved by the Planning Authority prior to their use in the development. Only those materials approved by the Planning Authority shall be used as the external finishes of the flatted building.

Development shall thereafter be carried out in strict accordance with the samples so approved.

Reason:

To ensure that the external finishes are appropriate in the interest of safeguarding the character

and appearance of the area.

- 3 The use of the business units hereby approved shall be limited to uses within Classes 4 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 or any order, which subsequently amends or re-enacts this Order.

Reason:

To ensure the use is limited to that which is applied for.

- 4 There shall be no occupation of any of the flats hereby approved unless and until the four business units hereby approved have been fully constructed and are available for occupation.

Reason:

To ensure that the business units are delivered in order to adequately compensate for the loss of part of this allocated business and industrial site.

- 5 The flats hereby approved shall be occupied only by persons over 55 years old.

Reason:

To control the development of the site to the use proposed in the interests of the good planning of the area and to ensure that the occupancy of the houses and flats accords with Policies INF3 and DP22 of the adopted East Lothian Local Plan 2008.

- 6 The private foul drainage system shall be designed such that it could easily be connected to the public sewer. It shall be connected to the public system once this becomes available.

Reason:

To enable future connection to the public system in order to ensure the most sustainable approach to waste water drainage.

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

Reason:

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

- 8 No residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the occupation of the final residential unit approved for erection on the site.

Reason:

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

- 9 Prior to the commencement of development details of the new vehicular access onto Heugh Road, including visibility splays, shall be submitted to and approved by the Planning Authority.

Prior to the occupation of any of the business units or flats the new vehicular access onto Heugh Road shall be formed in accordance with the details so approved and the widened footways at the northern and western edges of the application site and the internal access road, turning areas and car parking spaces, all as delineated on docketed drawing no. 1996.PL1.03 Revision C, shall have been formed and made available for use. Those areas thereafter shall remain available for use unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of road safety.

- 10 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction. The

recommendations of the Construction Method Statement shall be implemented prior to the commencement of development.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 11 Prior to the commencement of development the findings of a quality/ safety audit shall be submitted to and approved by the Planning Authority. The audit shall investigate ways to improve pedestrian crossing opportunities over Tantallon Road and Heugh Road in the vicinity of the application site. The audit shall also investigate whether crossing opportunities over Heugh Road would benefit from the narrowing of the road carriageway. The audit shall also include a timescale for when any such improvement works should be undertaken.

Any improvement works identified in the quality/ safety audit shall thereafter be undertaken in accordance with the details so approved.

Reason:

To enable the site to be accessible to local facilities and communities in the area as well as access to public transport provision, in the interests of road safety.

- 12 Prior to the commencement of development details of the cycle parking to be provided for the flats and business units hereby approved shall be submitted to and approved by the Planning Authority. The submitted details shall include a timetable for implementation.

Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 13 Any plant or equipment serving the proposed new business units shall be located, designed and constructed so that maximum noise levels associated with their use are within those levels as shown by Table 13 of the docketed Environmental Noise Assessment.

Reason:

To safeguard the residential amenity of existing nearby properties and the future residential amenity of the flats hereby approved.

- 14 The flats hereby approved shall be constructed in accordance with the following requirements:

(i) Any glazing units on facades indicated by the red line in Figure 5 of the docketed Environmental Noise Assessment shall have a minimum performance of RTRA 40dB and a ventilation unit capable of achieving a minimum $D_{n,e,w}$ of 46dB; and

(ii) Any glazing units on facades indicated by the purple line in Figure 7 of the docketed Environmental Noise Assessment shall have a minimum performance of RTRA 35dB and Acoustic trickle ventilation unit capable of achieving a minimum $D_{n,e,w}$ of 41dB when in the open position.

Those glazing units shall thereafter be retained in position, unless otherwise approved in writing by the Planning Authority.

Reason:

To safeguard the residential amenity of existing nearby properties and the future residential amenity of the flats hereby approved.

- 15 Notwithstanding the drawings docketed to this planning permission, the part of the 3.5 metres high timber fence that would be forward of the bus garage building is not hereby approved. Instead that section of the timber fence shall be no higher than the adjacent stone boundary wall. Otherwise the timber fence shall be 3.5 metres in height. The timber fence shall consist of closed boards on both sides of the fence, to be constructed with timber boards providing a mass of 10kgm⁻² both sides.

The timber fence shall in accordance with the requirements of this condition prior to the occupation of any of the flats hereby approved.

It shall thereafter be retained in place, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interest of safeguarding the character and appearance of the area and to ensure that the occupiers of the proposed flats would benefit from a sufficient level of residential amenity.