

PLANNING COMMITTEE

30 JUNE 2015

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

**TUESDAY 2 JUNE 2015
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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Committee Members Present:

Councillor N Hampshire (Convener)
Provost L Broun-Lindsay
Councillor S Brown
Councillor J Caldwell
Councillor S Currie
Councillor T Day
Councillor A Forrest
Councillor J Gillies
Councillor D Grant
Councillor W Innes
Councillor P MacKenzie
Councillor K McLeod
Councillor J McMillan
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 J Holland, Senior Solicitor
Mr D Irving, Acting Senior Planner
Ms K Slater, Planner
Mr E Bean, Graduate Planner
Mr M Greenshields, Transportation Planning Officer

Clerk:

Ms A Smith

Visitors Present:

Item 3 – Mr R Holder, Ms I Hopkins
Item 5 – Mr K Ross, Mr N Wright, Mr J Lamb, Mr C Stevenson, Ms K Payne,
Mr S Wright
Item 7 – Mr R Hall, Mr I McMinn

Apologies:

Councillor D Berry
Councillor J Goodfellow
Councillor J McNeil

Councillor T Trotter

Declarations of Interest:

None

1. MINUTE OF THE MEETING OF THE PLANNING COMMITTEE OF 5 MAY 2015

The minute of the Planning Committee of 5 May 2015 was approved.

2. PLANNING APPLICATION NO.14/00534/PCL: ERECTION OF PRIMARY SCHOOL AND ASSOCIATED WORKS AT LAND AT EAST LETHAM MAINS, AT HADDINGTON

A report was submitted in relation to Planning Application No.14/00534/PCL Keith Dingwall, Principal Planner, presented the report, summarising the key points. He informed Members that the following 3 items on the Agenda all related to development at Letham Mains, covering a total of 43 hectares of agricultural land. The principle of the proposed new school being erected within the allocated site of Letham Mains had been established by Proposal ED3 of the adopted East Lothian Local Plan 2008 and by the approved Development Framework for Letham Mains. This report set out all the technical aspects of the application. The report recommendation was to grant consent.

Local Member Councillor McMillan welcomed progress on the Letham Mains development; it had taken a considerable time to reach this stage. With regard to reactions to the development there were objections but there had also been many comments about the need for this development. He noted that concerns were largely not related to planning matters but rather to neighbourhood and community issues.

Local Member Provost Broun-Lindsay agreed with his colleague that progress on the Letham Mains development was long overdue. The primary school was key to the ongoing development of the area. He welcomed this particular application.

Councillor MacKenzie welcomed this application. It would be good to have a school at the heart of a new community. He was pleased to note that the site could accommodate future extension of the school if required. He was also pleased to note that a Green Travel Plan was included.

The Convener moved to the vote on the report recommendation:

For: 14

Against: 0

Abstentions: 0

Decision

The Committee agreed to grant planning permission 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 Samples of the external finishing materials and finishing colours to be used in the development shall be submitted to the Planning Authority for its prior approval, prior to their use in the development. Only those materials and finishing colours approved by the Planning Authority will be used in the external finishes of the development hereby approved.

Reason:

To ensure the external finishes are appropriate in the interests of protecting the amenity of the area.

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

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

Reason:

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

- 4 The design and installation of any plant or equipment shall be such that any associated noise does not exceed noise rating curve NR20 at any frequency when measured within any neighbouring residential building. Noise measurements shall be taken within the building with windows open at least 50mm.

Reason:

In the interests of protecting the amenity of future nearby properties.

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

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 6 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.

- 7 A Green Travel Plan to minimise private car trips and to encourage use of alternative modes of transport such as cycling and walking shall be submitted to and approved by the Planning Authority prior to the school opening for use. Additionally the Green Travel Plan shall include details of the measures to be provided, the methods of management, monitoring, review, reporting and duration of the Plan.

The approved Green Travel Plan shall be implemented prior to the first opening of the school.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the proposed school.

- 8 Prior to the commencement of development, full details of the finalised SUDS scheme shall be submitted to and approved in writing by the Planning Authority, following consultation with SEPA. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure adequate protection of the water environment from surface water run-off.

3. PLANNING APPLICATION NO.14/00089/PM: ERECTION OF 257 HOUSES, 119 FLATS, COMMERCIAL AND COMMUNITY BUILDINGS AND ASSOCIATED WORKS AT LETHAM MAINS, HADDINGTON

A report was submitted in relation to Planning Application No.14/00089/PM. Mr Dingwall presented the report, summarising the key points. He gave further details of the development regarding density, specifying the number of units per hectare, the public square, retail units and the linear park. In relation to affordable housing he advised that 17% was consistent with the Local Plan; Policy H4 stipulated 25% for all sites with the exception of the Blindwells and Letham Mains developments. He drew attention to the issues regarding future ownership and maintenance of the playing field/changing rooms, as detailed in the report. He referred to the conditions. With regard to Condition 9, Scottish Government advice stated that this negative wording could be used if the reason for this condition was to prohibit part of the development until a specific action had been taken, in this case to ensure the primary school had been built; there was therefore no justification to remove this condition. Condition 19, part ix - the wording "unless otherwise agreed in writing by the planning authority" should be added to this condition. The report recommendation was to grant consent.

Mr Dingwall responded to questions. He clarified, in relation to a query from Councillor Day about the Section 75 Agreement for the Aubigny Sports Centre that normally the detail was dealt with during the negotiation stage of the Agreement.

Councillor Currie queried the 17% allocation for affordable housing units. Mr Dingwall advised that the Letham Mains development had been many years in planning prior to the current Local Plan; the Council's Affordable Housing Policy at that time did not have a 25% affordable housing element. When the new Local Plan was being prepared the Letham Mains development had reached a stage that the applicants stated it would not be viable to increase this percentage to 25%. The Council had therefore decided to accept a lower number of affordable housing units. In response to further questions, Mr Dingwall replied that it would be unreasonable for the Council, to insist on 25% now as 17% had been stated in the current Local Plan and the Development Framework for Letham Mains. He advised that viability could be a material planning consideration; he clarified that developers could still request a lower percentage for affordable housing units in particular cases.

In response to questions from Councillor McMillan, Mr Dingwall advised that as regards density, this site reflected the appropriate balance. In relation to the

expansion of the Aubigny Sports Centre, this facility was wholly contained in its present site so the expectation would be expansion on that site.

Provost Broun-Lindsay queried the possible dangerous conflict between the footway/cycleway and traffic at the linear path crossing points. Marshall Greenshields, Transportation Planning Officer, advised that the detail for crossing points would be addressed in the Road Construction Consent.

In response to a question from Councillor MacKenzie about the public square, Mr Dingwall advised that the intention was to provide visual relief, it would be beside the primary school, with retail units to the north, so should be a well used space.

Robin Holder of Holder Planning, agent for the applicants for this and the next application, indicated that he would do one presentation covering the entire development. He and his clients had worked closely with the Council to produce a masterplan for the whole site. The process had started around 2004 and had involved a huge amount of work; it was the most comprehensive development management process he had been involved in. He responded to several points raised. He drew attention to developer contributions, as detailed in the report. In relation to the Aubigny Sports Centre it was appropriate that this be dealt with through a Section 75 Agreement. Regarding the 17% affordable housing allocation, if this percentage figure increased, the development would no longer be viable. In respect of the playing field/changing rooms his clients were prepared to gift these to Council, but not prepared to pay maintenance costs; alternatively they would retain these and appoint a Factor to manage these. He informed Members that Condition 9 was problematic as they were not in control of delivering the school; this was a significant issue for the applicant regarding the financial contribution for this development. He suggested that the Section 75 Agreement be given flexibility to allow the developer to provide the school, otherwise he requested deletion of this condition.

Councillor Day referred to capacity issues at the Aubigny Sports Centre and asked if the Council had any power in these negotiations to vary what the contribution was spent on and to influence the timing of the contribution. In relation to Councillor McMillan's point about wording of the relevant condition, he queried whether the Council could deliver offsite provision. Morag Ferguson, Service Manager for Legal and Procurement, advised that the negotiation process was bound by the terms of the conditions contained in the Committee's decision. She added that if there were concerns, the Committee could expand the wording of that condition when reaching its decision.

Irene Hopkins, a neighbouring resident whose property backed on to the Letham Mains site, spoke against the application. She raised a number of concerns in relation to the construction works, including noise, security and disturbance to local residents. There were issues regarding St Laurence Burn and Letham Burn. She also had concerns about the impact of the development on the sewage system, roads and on other schools in Haddington. She queried aspects of use of the playing field.

Local Member Provost Broun-Lindsay indicated that he understood the objectors' concerns however following the site visit and considering the plan for the development, he felt that some of the points raised were covered in the report. It would be impossible for any development of this scale to occur without any effect on neighbouring residents. The development was needed to meet the Scottish Government's requirements for housing in East Lothian; on balance he felt this development should go ahead so he would be supporting the recommendation.

Local Member Councillor McMillan noted Mr Holder's comments about the masterplan for the whole site. He echoed his colleague's comments about this much needed development. He noted at the site visit traffic volumes on Pencaitland Road and, with the distributor road going through the development, queried whether the effect in the long term on other roads should be looked at. He noted the agent's point about the school, condition 9, questioning if this required further thought from the Education and Planning authorities. He felt that clarification was needed about the number of units that would trigger an expansion to the Aubigny Sports Centre. He welcomed the report but there were still a few issues to be resolved.

Councillor Currie remarked that looking at sites approved years ago and at current applications the single biggest factor now was the size of the infrastructure required. With regard to affordable housing he pointed out there were 2 sites identified in the Local Plan under the 25% provision of affordable housing; he was not impressed by the viability argument, East Lothian was a good area for developers. This development, after more than a decade, needed to go forward; the reason this site had become more of an issue was the length of time it had taken to progress. Regarding the school, the conditions were there for a good reason; it was the Education Authority's responsibility to bring it forward on time. On balance, he supported the application.

Councillor Innes stated this was a very important site in the Local Plan. Lack of progression had resulted in the Council losing appeals on applications on other sites across East Lothian and other communities in the county had unacceptable developments forced on them by the appeal process. The new sports facility had long been in the planning process and he was slightly concerned that factors and residents would control this; it would be preferable for the Council to own and control the sports facility. Regarding affordable housing, at the time the application had first come forward there had been no national percentage figure. He supported the application.

The Convener brought the discussion to a close. This application had been in process for the last 10 years; it was an important site in the Local Plan and difficulties had been created by this site not coming forward. The Council now had a duty to put in the infrastructure to progress this development. With regard to the new primary school, he stated that legally the Council had to build this. As a whole these applications were welcomed, they would be a massive boost to Haddington and would provide housing for local people.

Councillor Day proposed an amendment to condition 2(v) so that a) the financial contribution should be used for the provision of sporting facilities in Haddington; and b) there should be a stipulation that this contribution should be paid prior to a certain number of residential units being occupied. The Convener indicated that this condition concerned the next application as well and suggested that the most appropriate way to deal with this would be to delegate the detail to the Convener and relevant Head of Service, with advice from Planning and Legal services as required. Councillor Day accepted this suggestion.

The Convener then moved to the vote on the report recommendation:

For: 14
Against: 0
Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to the following conditions, with the amendments as outlined:

1. The undernoted conditions.
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant and from the applicant the subject of separate planning application 13/00519/PM:
 - (i) A financial contribution to the Council of £71,100 towards upgrading works to the path network in the vicinity of Letham Mains. This contribution shall be made prior to occupancy of the first house.
 - (ii) The transfer to the Council, at no cost, of ownership of the site for the school that is approved by planning permission 14/00534/PCL. The site for the school shall be serviced and shall be transferred to the Council within 9 months of commencement of either of the developments the subject of planning permission 13/00519/PM or planning permission 14/00089/PM;
 - (iii) A financial contribution to the Council of £9,225,154 towards the primary school provision and £1,579,500 towards additional secondary school accommodation at Knox Academy;
 - (iv) The provision of the sports pitch and the two changing room facility hereby approved;
 - (v) A financial contribution to the Council of £524,800 towards the provision of sporting facilities in Haddington, the timing for when this contribution should be paid to be delegated to the Convener and relevant Head of Service, with advice from Planning and Legal services as required; and
 - (vi) The provision of 138 affordable housing units within the application site or if it can be demonstrated to the Council that this, or the off-site provision of 138 affordable units is not practicable, to secure from the applicant a commuted sum payment to the Council in lieu of such an on or off-site provision.
3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to: an inadequate path network in the vicinity of Letham Mains, an insufficient provision of sports facilities, a community sports pitch and related changing facilities; a lack of sufficient primary and secondary school capacity; and the lack of provision of affordable housing, contrary to the Council's Development Framework for Letham Mains, Haddington and, as applicable Policies INF3 and H4 of the adopted East Lothian Local Plan 2008.

- 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 The docketed phasing plan is not hereby approved. Instead, and prior to the commencement of development, a revised phasing plan shall be submitted to and approved in advance by the Planning Authority. The revised phasing plan shall accord with the following requirements:

(i) The footway/ cycleway required by condition 19v) above shall be formed and made available for use prior to the occupation of any of the residential units hereby approved;

(ii) The pedestrian crossing required by condition 19xvii) above shall be provided and made available for use prior to the school approved by planning permission 14/00534/PCL being open to pupils;

(iii) a timescale for the formation of the path running parallel to and crossing Letham Burn connecting to the south eastern corner of the site onto the A6093 Pencaitland Road; and

(iv) the access road between the B6471 road and the northern end of the site for the proposed primary school shall be formed and made available for use in the first phase of development.

The phasing of the development of the site shall be carried out in strict accordance with the revised phasing plan so approved, unless otherwise approved in writing in advance by the Planning Authority.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site.

The phasing of the development of the site shall be carried out in strict accordance with the revised phasing plan so approved, unless otherwise approved in writing in advance by the Planning Authority.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site.

- In relation to the required footway/cycleway to be provided along the southern side of the B6471 road linking the application site to the Park Lane junction with West Road (this to extend westwards to the proposed Sainsbury's (toucan) signalised crossing to provide a continuous link). The principle has been agreed but not worked through to a finalised design. This needs to be in place prior to the occupation of any houses.

- The provision of a controlled crossing over the distributor road (linking the A6093 road to the B6471) shall be in place/use prior to the school being open to the pupils.

- The provision of the pedestrian crossing to the east of the proposed public square shall consist of a zebra crossing or other suitable alternative, this shall be in place/use prior to the school being open to the pupils.

- The distributor road (linking the A6093 road to the B6471) and its access junction with the A6093 road (including the required path connection eastwards to the Letham Burn Bridge on the A6093) must be provided and open to vehicular traffic, including members of the public, prior to the occupation of any houses south of Letham Burn.

- The proposed path running parallel to and crossing Letham Burn connecting to the south eastern corner of the site onto the A6093 Pencaitland Road, shall be formed and made available for use in accordance with a timetable to be agreed in advance - from the proposed phasing plan (included in the current Masterplan) this should be provided at the end of phase 1 or prior to commencement of Phase 2 (this is currently proposed in Phase 2 but this may be at the end!).

- 3 Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses and flats 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 and flats 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 promote render as the predominant finish to the walls of the houses and flats, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. The render colours shall have due regard to the finishes of other residential properties in Haddington. However, some use of reconstituted stone would be acceptable providing it is limited to a distinctively complete feature of the houses and flats and respectful of their design integrity. All such materials used in the construction of the houses and flats 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.

- 4 Prior to the commencement of development details of the bin storage facilities for the flatted properties shall be submitted to and approved in advance by the Planning Authority. Prior to the occupation of any of the flats the bin storage facilities shall have been formed in accordance with the approved details and made available for use. Thereafter, the storage facilities shall be retained in use solely as bin storage areas.

Reason:

To ensure the provision of adequate bin storage in the interest of the residential amenity of the future occupants of the flats hereby approved and the visual amenity of the locality.

- 5 Development shall not commence until the findings of a soil gas survey have been submitted to and approved by the Planning Authority. The survey shall be undertaken to determine the current levels of gas emissions from the site. The findings shall contain details of any necessary mitigation measures to protect the occupiers of the proposed buildings from the migration of these gases.

Before any of the buildings are occupied any necessary mitigation measures shall be fully implemented as approved by the Planning Authority.

The presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority. At this stage, further investigations may have to be carried out to determine if any additional remedial measures are required.

Reason:

To ensure that the site is clear of contamination prior to the occupation of any of the buildings.

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

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 7 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.

- 8 Housing completions on the application site in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion rates, unless otherwise approved in writing by the Planning Authority:

Year 1- 05 residential units

Year 2- 60 residential units
Year 3- 75 residential units
Year 4- 74 residential units
Year 5- 75 residential units
Year 6- 70 residential units
Year 7- 17 residential units

If less than the specified number of residential units are completed in any one year then those shall be completed instead at Year 8 or beyond and not added to the subsequent Year.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 9 No more than 300 residential units shall be occupied within the allocated Letham Mains site unless and until the school approved by the grant of planning permission 14/00534/PCL has been completed and is made available for use.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 10 Prior to the commencement of development, a revised site layout plan shall be submitted to and approved by the Planning Authority. The revised site layout plan shall comply with the following requirements:

* the northern boundary for the house on plot 153 shall be realigned such that it aligns with the north elevation of that house. The realigned boundary shall be enclosed by a 1.8 metres high stone wall;

* a 1.1 metre high stone wall shall be erected at either side of the junction between the B6471 road and the northern end of the road serving the site for the new primary school.

* the northern boundaries of the northernmost houses and flats shall be enclosed either by hedging or stone walling;

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

Reason:

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

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

* a feature tree shall be planted between the junction and both of the new sections of 1.1 metres high stone wall required by condition 10 above;

* the northern boundary of the parking court between plots 160 and 161 shall be enclosed solely by hedging;

* large species trees shall be planted on either side of the junction that is to the east of plots 169, 170 and 171;

* the landscape buffer proposed for the southern edge of the site shall include hedges and small groups of tree planting;

* boulevard tree planting shall be provided on both sides of the distributor road that extends north-westwards from the proposed roundabout access.

* a 5.0 metres wide landscape belt shall be provided to the northeast of Gateside Cottage; and

* hedge planting with trees behind it shall be provided immediately to the north of the property on plot 153.

The scheme shall also include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

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

Reason:

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

- 12 Notwithstanding the drawings docketed to this planning permission, the east gable wall of the flats on plots 169, 170 and 171 shall not be a blank gable. It shall instead include windows within it. Prior to the commencement of development, a drawing showing compliance with the requirements of this condition shall be submitted to and approved in writing by the Planning Authority.

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

Reason:

To add visual interest to the visually prominent east gable wall of the flatted building, in the interests of the character and appearance of the area.

- 13 No development shall take place on site until the Scheduled Ancient Monument, known as Spottiswoode, enclosure 145m SSW of, has been protected by a fence, to be approved in writing by the Planning Authority, erected around the scheduled ancient monument at a distance as may be agreed in writing by the Planning Authority. Within the area so fenced off the existing ground level shall neither be raised or lowered and no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no fires shall be lit thereon without the prior written approval of the Planning Authority. The fence shall remain in place during construction works. On the completion of construction works the fence shall be removed from the application site.

Reason:

To ensure the retention and maintenance of the Scheduled Ancient Monument, known as Spottiswoode, enclosure 145m SSW of.

- 14 Prior to the occupation of any of the houses or flats hereby approved, a scheme for the future management of the Scheduled Ancient Monument, known as Spottiswoode, enclosure 145m SSW of, shall be submitted to and approved in writing by the Planning Authority. The scheme shall comply with the following requirements:

- * The Scheduled Ancient Monument should be preserved in open grass; and
- * There should be no shrub or tree planting within the scheduled area or within 20 metres of the scheduled monument boundary.

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

Reason:

To ensure the future retention and maintenance of the Scheduled Ancient Monument, known as Spottiswoode, enclosure 145m SSW of.

- 15 Prior to the commencement of development:

a) an otter and water vole survey shall be carried out along the Letham Burn and the St Laurence House Burn; and

b) details of the findings of the survey, and of any necessary mitigation measures, shall be submitted to and approved by the Planning Authority.

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

Reason:

In the interests of the ecology of the area.

- 16 Prior to the commencement of development details of the linear park, including its proposed design and future management, shall be submitted to and approved by the Planning Authority. The submitted details shall incorporate the needs of water voles.

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

Reason:

In the interests of the ecology of the area.

- 17 The areas of open space hereby approved, including the public square, football pitch and changing pavillion shall be maintained and retained for community use.

Reason:

In the interests of the amenity of the future occupants of the development hereby approved.

- 18 Prior to the commencement of development, full details of the finalised SUDS scheme shall be submitted to and approved in writing by the Planning Authority, following consultation with SEPA. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure adequate protection of the water environment from surface water run-off.

- 19 Prior to the commencement of development, details, including a timetable for their implementation, showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

i) A detailed swept path assessment shall be undertaken for all of the access roads within the housing development. This shall include the access junctions onto the B6471 and the A6093. It should also be noted that pedestrian safeguards should not form any part of the manoeuvring space for the Design Vehicle. The Design Vehicle to be used in the detailed swept path assessment shall be 2.5 metres wide, and shall have a 6.1 metre wheelbase within an overall vehicle length of 10 metres;

ii) Bus shelters and bus stops shall be provided within the site;

iii) 1 secure cycle storage space shall be provided per flat;

iv) Traffic signals shall be provided on West Road (the B6471). The signals shall be linked to each other and the future Sainsbury's access junction to allow the efficient operation and management of the localised road corridor along the B6471;

v) A footway/cycleway shall be provided along the southern side of the B6471 road linking the application site to the Park Lane junction with West Road. This shall also extend westwards to the proposed Sainsbury's (toucan) signalised crossing to provide a continuous link. The footway/ cycleway shall be formed in accordance with the findings of the Safety Audit docketed to this planning permission;

vi) A footway/cycleway shall be provided along the northern side of the A6093 road over the entire southern frontage of the application site;

vii) A footpath shall be formed within the site to connect to the existing footbridge over the St Laurence House Burn near to its confluence with the Letham Burn;

viii) A Quality audit to include visibility splays and removal of parking within these shall be undertaken for the application site. This shall include a risk assessment;

ix) The distributor road (linking the A6093 road to the B6471) and its access junction with the A6093 road (including the required path connection eastwards to the Letham Burn Bridge on the A6093) shall be provided and open to vehicular traffic, including members of the public, prior to the occupation of any houses south of Letham Burn, unless otherwise agreed in writing by the planning authority. These shall be formed in accordance with a Safety Audit that shall be undertaken for those works;

x) The proposed path running parallel to and crossing Letham Burn connecting to the south eastern corner of the site onto the A6093 Pencaitland Road, shall be formed and made available for use in accordance with a timetable to be agreed in advance;

xi) Cul-De-Sac's that are to form prospectively adoptable public roads shall normally have a minimum carriageway width of 5.5 metres, this can be reduced to 4.8 metres provided the vehicle tracking demonstrates the Design vehicle can physically manoeuvre;

xii) Within the housing areas a pedestrian safeguard is required, on at least one side, for prospectively adoptable public roads;

xiii) For all access junctions onto the distributor road linking the A6093 road to the B6471, minimum visibility splays of 2.5 metres by 43 metres are required, no obstruction shall lie within the splay above a height of 1.05 metres measured from the adjacent carriageway surface (including parking bays);

xiv) For all the crossings of the Letham Burn (both pedestrian/cycle and vehicular) details, including structural, are required;

xv) Single driveways shall be at least 6 metres long and be at least 3.0 metres wide;

xvi) Double driveways shall be at least 6 metres long and be at least 5 metres wide. Double length driveway shall be at least 11 metres long and 3 metres wide;

xvii) The pedestrian crossing to the east of the proposed public square shall consist of a zebra crossing or other suitable alternative; and

xviii) For all the crossings of the Letham Burn (both pedestrian/cycle and vehicular) details, including structural, are required;

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

Reason:
In the interests of road and pedestrian safety.

20 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.

21 A Travel Plan shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved. The Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

The Travel Plan shall thereafter be implemented in accordance with the details so approved.

Reason:
In the interests of ensuring sustainable travel patterns in respect of the residential development.

22 A Construction Management Plan 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 Management Plan shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work and delivery routes. It shall confirm that construction access to the site shall not be permitted via the Knox Place junction via West Road. All construction access shall instead be taken directly from West Road. The Management Plan shall also include the phasing of the development and restrictions that may be required, particularly for those travelling to existing and/or proposed schools. It shall also include details of how the habitat of the Letham Burn will be protected during the construction phase of the development.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 23 Prior to the commencement of development, a programme for monitoring the condition of the section of the public road of West Road (the B6471) between the Oak Tree roundabout and the application site, prior to and immediately following the completion of the housing development, shall be submitted to and approved in writing by the Planning Authority. Thereafter the approved programme of monitoring shall be implemented. Any remedial works shown by the monitoring as arising from the construction of the development, shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:

To ensure that damage to the public road network resulting from the construction of the housing development is rectified.

4. PLANNING APPLICATION NO.13/00519/PM: ERECTION OF 385 HOUSES, 48 FLATS, GARAGES AND ASSOCIATED WORKS AT LETHAM MAINS, HADDINGTON

A report was submitted in relation to Planning Application No.13/00519/PM. Mr Dingwall presented the report, summarising the key points. He reported that the density of this application was 27 residential units per hectare, which was slightly higher than the previous application. He advised Members of amendments to the conditions. As per the previous report, Condition 15, part ix - the wording "unless otherwise agreed in writing by the planning authority" should be added to this condition. Condition 8 should be amended to read Year 6 - 75 residential units and Year 7 - 69 residential units. The report recommendation was to grant consent.

Both Local Members indicated they had nothing further to add to their earlier comments.

The Convener moved to the vote on the report recommendation subject to the same changes as in the previous item relating to the contribution towards expansion of the sports facilities at the Aubigny Centre:

For: 14

Against: 0

Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to the following conditions, with the amendments as outlined:

1. The undernoted conditions.
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant and from the applicant the subject of separate planning application 14/00089/PM:

(i) A financial contribution to the Council of £71,100 towards upgrading works to the path network in the vicinity of Letham Mains. This contribution shall be made prior to occupancy of the first house.

(ii) The transfer to the Council, at no cost, of ownership of the site for the school that is approved by planning permission 14/00534/PCL. The site for the school shall be serviced and shall be transferred to the Council within 9 months of commencement of either of the developments the subject of planning permission 13/00519/PM or planning permission 14/00089/PM;

(iii) A financial contribution to the Council of £9,225,154 towards the primary school provision and £1,579,500 towards additional secondary school accommodation at Knox Academy;

(iv) The provision of the sports pitch and the two changing room facility hereby approved;

(v) A financial contribution to the Council of £524,800 towards the provision of sporting facilities in Haddington, the timing for when this contribution should be paid to be delegated to the Convener and relevant Head of Service, with advice from Planning and Legal services as required; and

(vi) The provision of 138 affordable housing units within the application site or if it can be demonstrated to the Council that this, or the off-site provision of 138 affordable units is not practicable, to secure from the applicant a commuted sum payment to the Council in lieu of such an on or off-site provision.

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to: an inadequate path network in the vicinity of Letham Mains, an insufficient provision of sports facilities, a community sports pitch and related changing facilities; a lack of sufficient primary and secondary school capacity; and the lack of provision of affordable housing, contrary to the Council's Development Framework for Letham Mains, Haddington and, as applicable Policies INF3 and H4 of the adopted East Lothian Local Plan 2008.

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 The docketed phasing plan is not hereby approved. Instead, and prior to the commencement of development, a revised phasing plan shall be submitted to and approved in advance by the Planning Authority. The revised phasing plan shall accord with the following requirements:

(i) The footway/ cycleway required by condition 15v) below shall be formed and made available for use prior to the occupation of any of the residential units hereby approved;

(ii) The controlled crossing required by condition 15xviii) below shall be provided and made available for use prior to the school approved by planning permission 14/00534/PCL being open to pupils; and

(iii) a timescale for the formation of the path running parallel to and crossing Letham Burn connecting to the south eastern corner of the site onto the A6093 Pencaitland Road.

The phasing of the development of the site shall be carried out in strict accordance with the revised phasing plan so approved, unless otherwise approved in writing in advance by the Planning Authority.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site.

3 Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses and flats 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 and flats 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 promote render as the predominant finish to the walls of the houses and flats, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. The render colours shall have due regard to the finishes of other residential properties in Haddington. However, some use of reconstituted stone would be acceptable providing it is limited to a distinctively complete feature of the houses and flats and respectful of their design integrity. All such materials used in the construction of the houses and flats 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.

4 Prior to the commencement of development details of the bin storage facilities for the flatted properties shall be submitted to and approved in advance by the Planning Authority. Prior to the occupation of any of the flats the bin storage facilities shall have been formed in accordance with the approved details and made available for use. Thereafter, the storage facilities shall be retained in use solely as bin storage areas.

Reason:

To ensure the provision of adequate bin storage in the interest of the residential amenity of the future occupants of the flats hereby approved and the visual amenity of the locality.

5 Development shall not commence until the findings of a soil gas survey have been submitted to and approved by the Planning Authority. The survey shall be undertaken to determine the current levels of gas emissions from the site. The findings shall contain details of any necessary mitigation measures to protect the occupiers of the proposed buildings from the migration of these gases.

Before any of the buildings are occupied any necessary mitigation measures shall be fully implemented as approved by the Planning Authority.

The presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority. At this stage, further investigations may have to be carried out to determine if any additional remedial measures are required.

Reason:

To ensure that the site is clear of contamination prior to the occupation of any of the buildings.

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

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 7 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.

- 8 Housing completions on the application site in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion rates, unless otherwise approved in writing by the Planning Authority:

Year 1- 05 residential units
Year 2- 60 residential units
Year 3- 75 residential units
Year 4- 74 residential units
Year 5- 75 residential units
Year 6- 75 residential units
Year 7- 69 residential units

If less than the specified number of residential units are completed in any one year then those shall be completed instead at Year 8 or beyond and not added to the subsequent Year.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 9 No more than 300 residential units shall be occupied within the allocated Letham Mains site unless and until the school approved by the grant of planning permission 14/00534/PCL has been completed and is made available for use.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 10 Prior to the commencement of development, details, including a revised site layout plan, shall be submitted to and approved by the Planning Authority. The revised site layout plan shall comply with the following requirement:

* The boundary treatment for all of the northern end of the application site shall consist of a stone wall or a stone wall with a hedge planting above it;

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

Reason:

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

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

* The existing roadside hedge to the south of the B6471 road shall be retained between the northwest corner of the application site and the proposed footpath link to the east of it;

* Trees shall be planted within the open space between the northernmost houses and the B6471 road;

*The landscaped open space at the northern edge of the application site shall be extended eastwards such that it would tie in with the proposed '6.5m landscaped zone';

* The southern and western boundaries of the area delineated as 'Affordable Housing 3' on the docketed Combined Development Proposals drawing and the western boundary of the land between that area and the proposed section of distributor road to the north of it shall all be enclosed by a hedgerow interspersed with tree planting; and

* boulevard tree planting shall be provided on both sides of the distributor road that extends north-westwards from the proposed roundabout access.

The scheme shall also include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

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

Reason:

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

- 12 Prior to the commencement of development details of the linear park, included its proposed design and future management, shall be submitted to and approved by the Planning Authority. The submitted details shall incorporate the needs of water voles.

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

Reason:

In the interests of the ecology of the area.

- 13 The areas of open space hereby approved shall be maintained and retained for community use.

Reason:

In the interests of the amenity of the future occupants of the development hereby approved.

- 14 Prior to the commencement of development, full details of the finalised SUDS scheme shall be submitted to and approved in writing by the Planning Authority, following consultation with SEPA. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure adequate protection of the water environment from surface water run-off.

- 15 Prior to the commencement of development, details, including a timetable for their implementation, showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

i) A detailed swept path assessment shall be undertaken for all of the access roads within the housing development. This shall include the access junction onto the B6471. It should also be noted that pedestrian safeguards should not form any part of the manoeuvring space for the Design Vehicle. The Design Vehicle to be used in the detailed swept path assessment shall be 2.5 metres wide, and shall have a 6.1 metre wheelbase within an overall vehicle length of 10 metres;

ii) Bus shelters and bus stops shall be provided within the site;

iii) 1 secure cycle storage space shall be provided per flat;

iv) Traffic signals shall be provided on West Road (the B6471). The signals shall be linked to each other and the future Sainsbury's access junction to allow the efficient operation and management of the localised road corridor along the B6471;

v) A footway/cycleway shall be provided along the southern side of the B6471 road linking the application site to the Park Lane junction with West Road. This shall also extend westwards to the proposed Sainsbury's (toucan) signalised crossing to provide a continuous link. The footway/ cycleway shall be formed in accordance with the findings of the Safety Audit docketed to this planning permission;

vi) The proposed path connection onto the distributor road (linking the A6093 road to the B6471) over the driveway for plots 32 & 33 of the Mactaggart & Mickel part of the application site is not approved. An alternative and segregated path shall instead be formed;

vii) Pedestrian Safeguards shall be provided in the parking courtyards serving plots 16/17, 18/19, 20/21 & 22/23 of the area delineated as 'Affordable Housing 2' in the docketed Combined Development Proposals drawing;

viii) A Quality audit to include visibility splays and removal of parking within these shall be undertaken for the application site. This shall include a risk assessment;

ix) The distributor road (linking the A6093 road to the B6471) and its access junction with the A6093 road (including the required path connection eastwards to the Letham Burn Bridge on the A6093) shall be provided and open to vehicular traffic, including members of the public, prior to the occupation of any houses south of Letham Burn, unless otherwise agreed in writing by the planning authority. These shall be formed in accordance with a Safety Audit that shall be undertaken for those works;

x) The proposed path running parallel to and crossing Letham Burn connecting to the south eastern corner of the site onto the A6093 Pencaitland Road, shall be formed and made available for use in accordance with a timetable to be agreed in advance;

xi) Cul-De-Sac's that are to form prospectively adoptable public roads shall normally have a minimum carriageway width of 5.5 metres, this can be reduced to 4.8 metres provided the vehicle tracking demonstrates the Design vehicle can physically manoeuvre;

xii) Within the housing areas a pedestrian safeguard is required, on at least one side, for prospectively adoptable public roads;

xiii) For all access junctions onto the distributor road linking the A6093 road to the B6471, minimum visibility splays of 2.5 metres by 43 metres are required, no obstruction shall lie within the splay above a height of 1.05 metres measured from the adjacent carriageway surface (including parking bays);

xiv) For all the crossings of the Letham Burn (both pedestrian/cycle and vehicular) details, including structural, are required;

xv) Single driveways shall be at least 6 metres long and be at least 3.0 metres wide;

xvi) Double driveways shall be at least 6 metres long and be at least 5 metres wide. Double length driveway shall be at least 11 metres long and 3 metres wide;

xvii) Speed reducing measures shall be provided on the distributor road (linking the A6093 road to the B6471) to ensure speed are kept at or below the 30mph speed limit;

xviii) At least one controlled pedestrian crossing shall be provided over the distributor road (linking the A6093 road to the B6471) to take account of school related journeys;

xix) For the housing area to the north western corner of the application site a further 3 visitors parking spaces shall be provided. Those spaces shall not be formed within any of the land proposed as open space; and

xx) For access to private parking courtyards, two-way movement of vehicles is necessary. The access shall therefore be a minimum of 4.8 metres wide over the first 10 metres length.

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

Reason:

In the interests of road and pedestrian safety.

- 16 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.

- 17 A Travel Plan shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved. The Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

The Travel Plan shall thereafter be implemented in accordance with the details so approved.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the residential development.

- 18 A Construction Management Plan 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 Management Plan shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work and delivery routes. It shall confirm that construction access to the site shall not be permitted via the Knox Place junction via West Road. All construction access shall instead be taken directly from West Road. The Management Plan shall also include the phasing of the development and restrictions that may be required, particularly for those travelling to existing and/or proposed schools. It shall also include details of how the habitat of the Letham Burn will be protected during the construction phase of the development.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 19 Prior to the commencement of development, a programme for monitoring the condition of the section of the public road of West Road (the B6471) between the Oak Tree roundabout and the application site, prior to and immediately following the completion of the housing development, shall be submitted to and approved in writing by the Planning Authority. Thereafter the approved programme of monitoring shall be implemented. Any remedial works shown by the monitoring as arising from the construction of the development, shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:

To ensure that damage to the public road network resulting from the construction of the housing development is rectified.

5. PLANNING APPLICATION NO.14/00731/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 13/00071/PPM – ERECTION OF 109 HOUSES, 4 FLATS AND ASSOCIATED WORKS AT DOVECOT FARM, PENCAITLAND ROAD, HADDINGTON

A report was submitted in relation to Planning Application No.14/00731/AMM. Mr Dingwall presented the report, summarising the key points. He advised Members that the proposal was consistent with the development plan and the conditions specified in the Reporter's decision letter. The report recommendation was to grant consent.

Kenny Ross of EMA Architecture and Design, agent for the applicant acknowledged that the application site had sensitive boundaries, informing Members that there had been detailed discussions with a tree specialist and the Landscape Officer. Following this, adjustments had been made to parts of the site at the eastern boundary; on average the houses would now be 14 metres further from the trees. The house types would be traditional in design with grey roof tiles. The frontages, with hedging, would help integrate the development and respect the character of East Lothian.

In response to a question from Councillor MacMillan, Mr Ross advised that the spray painting shed had been moved to the northern boundary, around the existing commercial space.

Charles Stevenson spoke against the application. He lived at Clerkington and was responsible for the woodland to the east of the application site. He had issues with the report, which gave the impression he was uncooperative regarding the footpath; this was not the case, he had proposed a more comprehensive path which would connect with the Core Path Network. His main concern was the proximity of trees to housing; 4 trees in particular were very high, above the rest of the canopy. Given this, it was difficult to understand the Reporter's comment that all foreseeable concerns of future residents had been taken into account. He queried why the site plan could not be altered so that the road, not housing, was closer to the wood. If consent was granted, he asked the Council to note that these trees were the subject of a TPO. He added that, in relation to Condition 5, he had not been consulted.

The Service Manager for Planning, Iain MacFarlane, clarified, with regard to the trees, that the Planning Authority had taken into account the Reporter's view of a previously imposed buffer zone. The applicant had worked with the Council's Landscape Officer to meet the required standard, as set out by the Reporter. With regard to the longer term, the trees were protected by a TPO. If there were issues regarding proximity of trees to residential properties, this was for the developer to address.

The Convener, referring to Condition 5, asked if there was a burden on the neighbouring owner for action; Mr MacFarlane confirmed this was a matter for agreement between the owner and the developer.

Karen Payne, neighbouring resident, spoke against the application. She emphasised that this was the first opportunity for Members to consider the Dovecot development. She commented adversely on the planning process, in particular that the decision had been made by the Reporter, who could not possibly understand the needs of East Lothian residents; the decision also disregarded that this site was not in the Local Plan. A development of this type had no place at Dovecot; it represented the actions of opportunistic developers. The existing bungalow and cottage fitted the landscape; the proposed housing was not sympathetic in design. There was an existing right of servitude at the front of their property; this matter was now being dealt with through their solicitors. She urged the Committee to delay the development until all existing rights of access were resolved.

Stephen Wright spoke against the application, raising concerns primarily about traffic. Referring to recently approved developments, he stated that the majority of

construction traffic would use West Road then Clerkington Road; a narrow street, used by school children and cyclists. On completion of these developments there could potentially be hundreds of additional cars using this unsuitable street every day. It would be sensible to phase this development after the Letham Mains infrastructure was in place. He also raised concerns about the school provision and lack of consideration and protection of the wildlife that existed in the Dovecot area.

Local Member Councillor McMillan also remarked that this was the first time this application had been before the Committee. He was sympathetic to the objectors' comments; there were concerns about legal issues, access, wildlife and traffic. In relation to traffic issues, he felt the traffic survey had to an extent alleviated some of his concerns. He acknowledged Mr Stevenson's comments. He appreciated that the Reporter had made his decision however he felt there were still issues to be resolved. He would like more reassurance on several matters as there was a great deal in this application and in the objectors' comments that could lead him to refusal.

Local Member Provost Broun-Lindsay empathised with his colleague. He was aware of the risk if the Committee refused the application as the principle of development had already been established. He had sympathy with the objectors' concerns and the difficulties for individuals dealing with aggressive developers. There were issues regarding the trees and he sympathised with Mr Stevenson, as the trees remained in his ownership and management. Their height and proximity to residential properties was a matter of concern; whether this was sufficient to delay or refuse this application was uncertain.

Councillor Currie also reiterated that the principle of development had already been established. He understood the concerns of the objectors; it was evident from the site visit that this was an exceptional area of land. However the Reporter had already said there had been an unacceptable delay so further delay would not be advisable. Landscape and Biodiversity officers had raised no objections, so on that basis it was difficult to find grounds to go against the recommendation.

Councillor Innes agreed with Ms Payne's opening remarks. It was extremely unfortunate that the Committee had not been able to determine the earlier application, but unfortunately the Reporter had taken the decision and the principle of planning permission had been established. There were no grounds in the report for refusal so, reluctantly, he would be supporting the recommendation.

Councillor Grant concurred with Councillors Innes and Currie. He expressed disappointment that the developer had appealed so soon to Scottish Ministers and had not pursued matters further with the Planning Authority. This site sat in splendid isolation and was not an area for development. However, given the Reporter's decision, the Committee had no option other than to approve the application so he would, reluctantly, support the report recommendation.

Councillor McMillan asked if a condition for phasing of the development, or any other way of alleviating some of the traffic concerns, could be considered.

The Convener cautioned that as Road Services had stated that the proposed development would not result in unacceptable levels of traffic on Clerkington Road; this would not be an advisable course for the Committee. He stressed that planning permission in principle had been granted outwith this forum and, given this, refusal of this application may result in a further appeal.

The Convener moved to the vote on the report recommendation:

For: 12
Against: 0
Abstentions: 2

Decision

The Committee agreed 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 Prior to the occupation of the last house or flat approved, the proposed access roads, parking spaces, and footpaths shall have been constructed on site, in accordance with the docketed drawings and the following transportation requirements:

(i) driveways shall have minimum dimensions of 6 metres by 3.0 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length;

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

(iii) at driveways, 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.

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 flats 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.

- 3 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.

- 4 Notwithstanding the drawings docketed to this approval of matters specified in conditions, the proposed road serving plots 33-37 and plots 43-45 is not hereby approved. It shall instead consist of a 4.8 metres wide carriageway with a 2.0 metres wide footway on only one side of it. Prior to the commencement of development an amended site layout plan showing compliance

with the requirements of this condition shall be submitted to and approved by the Planning Authority. Development shall thereafter be carried out in strict accordance with the details so approved.

Reason:

To accord with the principles of Home Zones and with the requirements of condition 3d of planning permission in principle 13/00071/PPM.

- 5 The submitted landscape information is not hereby approved. Instead, and prior to the commencement of development, revised landscape information shall be submitted to and approved by the Planning Authority. The revised landscape information shall comply with the following requirements:

1) The Tree Protection Plan and the Tree Constraints Plan Drawing shall each have the construction exclusion zone areas clearly identified and dimensioned and a clearly identified scale. The note on them referring to the long term tree management arboricultural method statement shall correctly refer to the date of that statement. They shall also clearly show all tree numbers of the trees within Clerkington Wood. It shall also show the easement strip offset by 2 metres from the existing post and wire fence boundary to Clerkington Wood;

2) The construction method statement contained in the Tree Protection Plan shall include details of the proposed fence post foundation size;

3) The Tree Survey, long - term Tree Management, Arboricultural Method Statement shall include a requirements for tree safety inspections to be carried out annually or after major storm events;

4) The Tree Survey, long - term Tree Management, Arboricultural Method Statement shall include a requirement for ivy to be removed (cut off from the base of the trees using great care not to cut the trunk of the trees) from the base of the mature trees using appropriate herbicide. It shall also require that the area of wood is to be stocked with a combination of forestry transplants and standard trees. The new trees shall be covered in a 100mm depth of woodchips to prevent weed competition. The revised landscape information shall include confirmation of a program of inspections to be undertaken to the area of wood in order to review the need for thinning at years 5, 10, 15 and 20; and

5) The Tree Survey, long - term Tree Management, Arboricultural Method Statement shall include more specific details of the inspection intervals, which are specified in section 12 of the submitted report entitled "Duties of the appointed Arboricultural Consultant". The wording of the Statement shall be amended to read "any required realignment of any part of the construction exclusion zone shall be supervised and checked by the project Arboricultural consultant who will submit details of any changes to the agreed construction exclusion zone plan for the prior approval of the Planning Authority". The Statement shall also include a detailed tree management work specification for all trees on or adjacent to the application site before the occupation of the first house completion.

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

Reason:

To ensure the retention of trees and vegetation important to the appearance and environment of the area.

6. PLANNING APPLICATION NO. 15/00022/PM: CONSTRUCTION AND OPERATION OF A LEACHATE TREATMENT PLANT (LTP) COMPRISING A SERIES OF STORAGE AND TREATMENT TANKS WITHIN A SURFACED AND BUNDED COMPOUND, TOGETHER WITH LAGOONS, REED BEDS AND ANCILLARY PLANT AND INFRASTRUCTURE AT DUNBAR LANDFILL SITE, OXWELLMAINS, DUNBAR

A report was submitted in relation to Planning Application No.15/00022/PM. Daryth Irving, Acting Senior Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Councillor Day stated that this was an appropriate scheme and the treatment plant would be well concealed.

The Convener moved to the vote on the report recommendation:

For: 14

Against: 0

Abstentions: 0

Decision

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

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

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

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

Reason:

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

2 A schedule of materials and finishes and samples of such finishes for all components of the development, including ground surfaces and boundary enclosures shall be submitted to and approved by the Planning Authority prior to the material and finishes being used in the development. 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.

3 During construction works advanced warning signs shall at all times be displayed on the public road to inform public road users of construction traffic in the vicinity. Prior to their display, details of the proposed signs and their locations shall be submitted to and approved in writing by the Planning Authority and the signs shall thereafter be displayed in accordance with the details so approved.

Reason:

In the interests of road safety.

4 Prior to the commencement of development of the leachate treatment plant hereby approved the lengths of DIRICK and chain link fencing also hereby approved shall be erected in their entirety and be retained in place during all construction works.

Reason:

To ensure the retention and maintenance of the trees on and adjacent to the site which are an important landscape feature of the area.

5 Prior to the commencement of development:

(i) the results of percolation tests required to determine if the ground conditions are suitable for infiltration shall be submitted to and approved in advance by the Planning Authority following consultation with the Scottish Environment Protection Agency; and

(ii) details of the proposed sustainable urban drainage scheme (SUDS) for surface water treatment for the application site shall be submitted to and approved in writing by the Planning Authority following consultation with the Scottish Environment Protection Agency and such detail shall be in accordance with the technical guidance contained in The SUDS Manual (C697).

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

Reason:

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

7. PLANNING APPLICATION NO.15/00040/P: ERECTION OF 1 FLAT AND CARPORT AT LAND ADJACENT TO 6 FORTH STREET LANE, NORTH BERWICK

A report was submitted in relation to Planning Application No.15/0040/P. Kirsty Slater, Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

In response to a question from Councillor Day about the legal position as regards space abutting a property, Ms Ferguson advised that it depended on what was contained in the title deeds. She added that regardless of whether planning permission was granted or not, it was up to the applicant to ensure they had sufficient rights to implement their proposal.

Rick Hall of Richard Hall Architects, agent for the applicant, outlined the proposal. He drew attention to the requirements for building in a Conservation Area. He informed Members that the proposed building was of a contemporary design but would complement the variety of buildings in the area; it was designed for its place. The render finish would match that of the neighbouring building. The ground floor car port would provide parking for 3 cars.

Ian McMinn, neighbouring resident, spoke against the application; also on behalf of another neighbour, Dorothy Boyle. The main concern was the issue of building on boundary walls and onto his garage and living room roof. Regarding the new garage, he stated that 3 cars could not possibly fit into this space. The proposal would be building over, and completely remove, parking spaces.

The Convener indicated that Councillor Berry had called this application off the Scheme of Delegation list but he was unable to attend the meeting today.

Local Member Councillor Day remarked that this was a contentious application and he was glad his colleague had brought it to the Committee for determination. There were 3 elements he wished to raise; the Conservation Area, overlooking and overdevelopment. Conservation Area: the design and render would tone in well with other buildings. Overlooking: there was already a degree of overlooking between properties in this area. Overdevelopment: this area was already a densely populated back land, so was not an overdevelopment. He would support the application; he understood the legal issue but this was for the applicant and objector to address.

Councillor Innes agreed with his colleague; he felt the proposal was well designed and would blend in to the town. He also agreed that the legal issues were between the applicant and objector. In terms of planning matters the application was acceptable and he would be supporting the report recommendation.

The Convener moved to the vote on the report recommendation:

For: 14
Against: 0
Abstentions: 0

Decision

The Committee agreed to grant planning permission 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 Prior to their use on the building hereby approved, samples of the external materials and finishes of the roof and walls of the building shall be submitted to and approved in writing by the Planning Authority.

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 character and appearance of the Conservation Area.

- 3 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a Construction Method Statement, which shall include mitigation measures to control construction traffic and shall include hours of construction work, all to minimise disruption to the area and pedestrian access.

Reason:

In the interests of pedestrian and road safety and of the amenity of the area.

- 4 Prior to the flat hereby approved being brought into use the parking arrangements for it and the neighbouring flat of 4 Forth Street Lane shall be laid out as shown in docketed drawing no. PL01 and thereafter the parking area shall be retained for such use and; the first two metres of the parking area measured from the back edge of the public road and for the full width of the access to it from Forth Street Lane shall be hardsurfaced.

Reason:

To ensure that sufficient off-street parking is available and to prevent vehicles encroaching onto the public highway in the interests of pedestrian and road safety.

- 5 Prior to the occupation of the flat hereby approved the glazing of the first and second floor windows to be formed in the west elevation of the building and the windows to be formed in the west elevation of the roof terrace room of the building shall be obscurely glazed in accordance

with a sample of obscure glazing to be submitted to and approved in advance by the Planning Authority. The obscure glazing of the windows shall accord with the sample so approved. Thereafter the glazing of the windows shall continue to be obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and residential amenity of the neighbouring flatted building of 21 Forth Street to the west.

- 6 No use shall be made of the roof terrace unless and until an obscure glazed screen measuring some 1.5m in height is erected along the full extent of the north and west sides of the roof terrace, in accordance with details and a sample of the obscure glazed screens to be submitted to and approved in advance by the Planning Authority. The obscure glazed screens shall accord with the sample so approved. Thereafter the obscure glazed screens shall be retained in place unless otherwise approved by the Planning Authority.

Reason:

In order to protect the residential amenity of the neighbouring properties to the north and west.

- 7 Prior to the occupation of the flat hereby approved the louvers to be erected on the west side of the balconies of the west elevation of the flatted building shall be fully formed in accordance with detail of them on the docketed drawings. Thereafter the balconies shall continue to be enclosed by louvers on their west side unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and residential amenity of the neighbouring flatted building of 21 Forth Street to the west.

8. PLANNING APPLICATION NO. 15/00166/P: EXTENSION TO HOUSE WITH FIRST FLOOR BALCONY, FORMATION OF DECKING AND ERECTION OF FENCING AT 53 OLD ABBEY ROAD, NORTH BERWICK

Members were informed that item had been withdrawn.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

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

2

Application No. **14/00903/PPM**

Proposal Amendments to planning permission in principle 12/00924/PPM, including an increase in number of residential units from 1050 up to a maximum of 1450, relocation and redesign of open space, development for residential purposes of areas previously proposed as open space and relocation and redesign of proposed local centre

Location **Land To South, East And West
Wallyford
East Lothian**

Applicant East Lothian Developments Ltd

Per Derek Scott Planning

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application for more than 50 housing units and is therefore a major development type, subject to a decision of the Planning Committee. It is recommended that planning permission in principle be granted, subject to conditions and the completion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, for the reasons set out in this report.

The application site is predominantly bounded to the north and west by agricultural land and by the northern part of Wallyford, to the south by the A1 trunk road, and otherwise to the east and to the south by agricultural land. The neighbouring agricultural land forms part of the Edinburgh Green Belt.

On 30 November 2009 planning permission in principle (Ref: 09/00222/OUT) was granted for a mixed use development on some 86 hectares of predominantly agricultural land to the east, south and southwest of Wallyford. The site included Wallyford Community Woodland, the public roads of Salters Road and Inchview Road, and the area of open space that is immediately to the southeast of Wallyford Community Centre.

Planning permission in principle (12/00924/PPM) was subsequently sought for renewal of planning permission in principle 09/00222/OUT, as submitted to the Council on 26 November 2012. On 1 April 2014 the Council resolved to approve the application subject to the required Section 75 Agreement and planning permission in principle was duly granted with conditions on 14 November 2014 following the registration of that agreement.

Subsequent to this the applicant sought and was granted permission for the following variations to the conditions of planning permission in principle 12/00924/PPM:

Variation of condition 2 of planning permission in principle 12/00924/PPM to allow for the development and occupation of residential units from both the western (A6094 - Salters Road) and northern (A199) ends of the site (14/00913/PM);

Variation of condition 5 of planning permission in principle 12/00924/PPM to allow for up to 90 units to be completed in Year 1, up to 150 units in Year 2, up to 150 units in Year 3 and up to 60 units in Year 8 (14/00916/PM).

Through this application now under consideration, planning permission in principle is sought for amendments to planning permission in principle 12/00924/PPM, including an increase in number of residential units from 1050 up to a maximum of 1450, relocation and redesign of open space, development for residential purposes of areas previously proposed as open space and relocation and redesign of proposed local centre.

The elements of the then and now proposed mixed use development include residential development, community buildings including a new school and community facilities, office units, a restaurant, business units, general industrial units, storage and distributions units, trade counter units, a residential institution, a non-residential institution, hot food takeaways, playing fields, open space, allotments, landscaping and associated infrastructure provision.

The main differences in respect of the masterplan now proposed as compared to that approved by planning permission in principle 12/00924/PPM are:

- o The development is proposed to comprise of up to 1450 residential units rather than the 1050 approved, including for development of land to the south of Wallyford Toll previously identified as open space and development on the land of the sports pitches to the south of the proposed distributor road;
- o Enlargement of the school site;
- o Repositioning of the local centre and redesign of its layout
- o Relocation of sports pitches and associated facilities and the replacement of one of the two grass sports pitches with a 3G artificial pitch

As a statutory requirement of major development applications, this development proposal was the subject of a Proposal of Application Notice (Ref: 14/00012/PAN) and of the required community consultation prior to the application for planning permission in principle being made to the Council.

As a further statutory requirement of major development applications a pre-application consultation report is submitted with the proposal. The report informs that a total of 76 people attended the pre-application public exhibitions, which were held at Wallyford Miners' Welfare Society and Social Club (67 people) and the Loch Centre, Tranent (9 people), and that 9 of the attendees made a number of suggestions regarding the proposals. The development for which planning permission in principle is now sought is of the same character as that subject to the community engagement undertaken through

this statutory process.

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). On 9 May 2014 the Council adopted a Screening Opinion that and Environmental Statement was required and a subsequent Scoping Opinion (15 July 2014) in respect of the matters to be considered in the Environmental Statement including landscape, transportation, air quality, noise and cultural heritage matters.

An environmental statement was submitted to the Council on 23 February 2015 and duly advertised and consulted on.

The application is also supported by a masterplan providing a proposed design for the site and a supporting statement which provides an explanation of the differences of the 1450 unit scheme from the 1050 unit scheme. The design seeks to addresses issues of principle concerning design concept, access, including pedestrian and cycle access, landscape framework and public open space provision, and design strategy and aims in respect of the different components of the proposed mixed use development.

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) with its approved Supplementary Planning Guidance on housing Land and the adopted East Lothian Local Plan 2008. Policies 5 (Housing Land), 6 (Housing Flexibility) and 7 (Maintaining a Five Year Housing Land Supply) of SESplan are relevant to the determination of the application. Proposal H7 Land to the Southeast and Southwest of Wallyford) and Policies H2 (Development Frameworks), H4 (Affordable Housing), INF3 (Infrastructure and Facilities Provision), DP5 (Major Development Sites), T1 Development Location and Accessibility), T2 (General Transport Impact), DP1 (Landscape and Streetscape Character), DP3 (Housing Density), DP4 (Design Statements), DP5 (Major Development Sites), DP15 (Sustainable Urban Drainage Systems), DP17 (Art Works -Percent for Art), DP18 (Transport Assessments and Travel Plans), DP21 (Public Transport), DP23 (Waste Minimisation, Separation, Collection and Recycling), DP24 (Home Zones) and C1 (Minimum Open Space Standard for New General Needs Housing Development) of the adopted East Lothian Local Plan 2008 are also relevant to the determination of the proposal, as is the Council's Design Standards for New Housing Areas. Scottish Planning Policy: June 2014 on matters of housing land supply and housing development is also material to the determination of the application.

A total of three written representation have been received in respect of this application, two of which are from the same representor and all of which raise objection to the proposals. The grounds of objection are in respect of the proposed business area to be formed by an extension of Wallyford Industrial Estate to the south of Oliphant Gardens and potential impacts of the development in respect of the following considerations:

- o Residential privacy and amenity
- o Visual impact
- o Loss of trees and green space
- o Capacity of existing primary school
- o Views towards Fa'side Castle
- o Traffic generation and increased activity

- o Impact on conservation areas
- o Development plan
- o House prices

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

The matters of potential impact on house prices and private views are not material to the determination of this application. The site is not in or adjacent to a conservation area.

Wallyford Community Council makes no comment on the proposals.

The majority of the application site is covered by Proposal H7 (Land to the south, east and southwest of Wallyford: Housing and mixed use development) of the adopted East Lothian Local Plan 2008, which allocates the land for a mixed use development of 1000 houses, social, educational and community facilities, open space, and associated infrastructure.

Proposal H7 is intended to promote environmental, social and community regeneration within Wallyford. It therefore requires that new facilities for regeneration must be located so as to be well-integrated with and accessible to the existing community as well as serving the areas of new development. It also requires that the proposals must result in a significant improvement in traffic conditions within Wallyford, particularly along Salters Road.

Proposal H7 required the Council to prepare a Development Framework addressing the development requirements of the site and defining the extent and location of the various land uses, with which, under Policies H2 and DP5, the developer must comply. The developer is required to submit with an application a masterplan consistent with this Framework and with the local plan development policies. Additionally Proposal H7 requires that there be developer contributions for all necessary infrastructure, education and community facilities arising as a consequence of this development.

A Development Framework for the site was approved by the Council at a meeting of Cabinet on the 10 March 2009 after consultation with the relevant parties. It sets out the land uses expected for the site and how the Council requires the site to be developed in terms of infrastructure and design. The Development Framework is an important material consideration in the determination of this application for planning permission in principle.

The site covered by Proposal H7 of the adopted East Lothian Local Plan 2008 includes the site of the existing Wallyford Primary School, which is owned by East Lothian Council. The school site does not form part of the site of this application and therefore the masterplan does not cover all of the Proposal H7 site. However, the proposals include for a new school to replace the existing Wallyford Primary School. Future redevelopment and of the existing primary school site can be considered once it is no longer in educational use and it is reasonable for the Council to accept that the masterplan not include proposals for that part of the allocated site.

The principle of the mixed use development of the application site is established by the allocation of the land for mixed use development by Proposal H7 of the adopted East Lothian Local Plan 2008 and by planning permission in principle 09/00222/OUT and 12/00924/PPM.

When those previous planning applications were determined, it was accepted by the Council that the masterplan of the site as approved for 1050 housing units also demonstrated how a total of 1242 residential units could be accommodated on the site.

In respect of those previous planning permissions the Council's Depute Chief Executive (Resources and People Services) advised that the impact on education capacity was assessed on the basis of the 1050 residential units then applied for and that therefore to ensure sufficient education capacity no more than 1050 residential units should be approved. In respect of the Transport Assessment then submitted, Transport Scotland also recommended at that time that the development be restricted to no more than 1050 residential units in relation to potential impacts on the trunk road network. At the time the applicant agreed to those limits and the applications were approved on that basis.

That number of residential units also reflected the strategic housing requirements of the then current strategic development plan, the approved Edinburgh and the Lothians Structure Plan 2015 and Proposal H7 of the adopted East Lothian Local Plan 2008. The Structure Plan is now revoked and replaced by SESplan following final Ministerial approval of its Supplementary Planning Guidance on Housing Land last year. SESplan Policy 5 together with the Supplementary Guidance sets a housing target for East Lothian of some 10,500 houses over the period to 2024. East Lothian Council has accepted in the determination of applications for housing development on sites not allocated for housing development that there is a shortfall in the housing land supply such that there is not an effective five year housing land supply for the area, as required by Policy 5 of SESplan and by Scottish Planning Policy: June 2014. Policy 7 of SESplan sets out criteria for development of green field sites to contribute to maintaining an effective five year housing land supply.

In the supporting statement submitted with the application it is contended that the previous strategic development plan requirements are no longer relevant, that the now proposed development of 1450 residential units on the allocated site is appropriate in that it makes use of land within the site which the previous scheme did not seek to develop for housing and that in being developed for a greater number of units the proposal would make a contribution towards the five year housing land supply on an allocated site. It is also contended that the greater number of housing units would improve the viability of the proposals and assist with early delivery of both houses and community facilities.

Notwithstanding the replacement of the strategic development plan and the issue of housing land supply, the primary material consideration in the determination of this application is whether in making use of additional land within the site and in redesigning the layout of it, the proposals can be accommodated at a reasonable level of density and urban design, with an appropriate amount of open space and recreation provision, with acceptable landscape integration, with acceptable transport and related impacts and in keeping with the objectives and requirements of the approved Development Framework, including to contribute to the regeneration of Wallyford.

The now proposed layout of housing development of the site would be broadly similar on the southwestern part of the site to the layout previously approved with some additional houses reflecting a revised layout. On the northern part there would be additional housing on the land to the south of Wallyford Toll where the cropmark which was formerly a Scheduled Monument has now been de-scheduled. On the southeastern part of the site where in the previous scheme sports pitches were located there would now be residential development, with the pitches relocated. These additional areas of housing are shown on the indicative masterplan as being laid out and designed in a similar 'home zone' type layout as for the other areas of residential development. As such they would be an appropriate form of housing development, subject to the submission of detailed designs.

The development would include for a wide range of house types and sizes in order to cater for varying housing needs. The development scheme now proposed would have an average density of some 32.8 dwellings per hectare compared with 30.7 per hectare for the 1050 unit proposal. This is in accordance with the minimum density requirement of 30 houses per hectare as set out in the approved Development Framework and as required by Policy DP3 of the adopted East Lothian Local Plan 2008.

It is also set out in the Development Framework that 25% of the proposed housing component of the site's development has to be affordable housing. This was accepted in the masterplan report with the previous applications with the stated principles of development of the affordable housing being concentration close to the new local centre where there would be good access to public transport and civic amenities, otherwise in dispersed pockets of approximately 30-60 units located throughout the masterplan area, and with no distinction to be made in urban design or architectural terms between the affordable and private housing.

The Council's Economic Development & Strategic Investment Manager advises that in accordance with the Council's affordable housing policy, 25% of the 1450 houses should be affordable housing units, i.e. a total of 363 affordable housing units. They should be provided on site or if it can be demonstrated to the Council that this, or the off-site provision of 363 affordable units is not practicable, a commuted sum payment should be made to the Council in lieu of such an on or off-site provision. The terms for the provision of this affordable housing requirement should be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement the proposal is consistent with Policy H4 of the adopted East Lothian Local Plan 2008. The applicant's agent has confirmed in writing that his client is willing to enter into such a Section 75 Agreement.

The approved Development Framework requires that a new mixed use local centre should form part of the proposed mixed use development. The Development Framework states that the new local centre should contain new employment and leisure opportunities, a new local library, and a new single all through primary school. It must be located at the core of the expanded settlement to be highly accessible to all.

The masterplan as now proposed indicates as before a new local centre to be located between the southern end of Inchview Road and the new distributor road which would run through the site from the southwest end of Salters Road to the A199 road to the east. In relation to the proposed increase in housing units, the area of land for the proposed school is greater than as previously approved, to allow for increased pupil numbers. As a result the proposed location of the other elements of the local centre has moved to an extent to help accommodate the larger school site. With this change it would also have a different layout to the local centre as previously approved. However, its location would not be significantly different from that as approved and in its layout would relate to and be no less accessible to the existing residents of Wallyford by walking, cycling and by car. The proposed altered layout would retain a main street framed by the school and elements of the local centre whilst also relating well to adjacent parts of the proposed new housing development and open space to the east of it. The range of uses proposed for the local centre includes a new school, community facilities, retail uses, restaurants, hot food takeaways, office units and housing. In all of this the local centre as now proposed is consistent with the requirements of the Development Framework.

As set out in additional information submitted with the application the retail use of the new local centre would include two small supermarkets each with a 1265 sq m gross

floor space, other small retail units with a further 804 sq m floor space, some 469 sq m of floor space for Class 2 uses (financial, professional and other services) some 268 sq m for Class 3 uses (restaurants/cafes) and some 268 sq m each for hot food takeaway use (sui generis). The new local centre as now proposed in the new masterplan would therefore have a similar floorspace provision for each of these uses and a total floorspace of some 4339 sq m floor space across 17 units as previously approved and in accordance with the approved Development Framework.

In that their floorspace is of a similar order to that sought by the approved Development Framework and as previously approved and subject of a Retail Assessment, the shops and supermarkets as now proposed would not adversely affect the vitality and viability of Musselburgh town centre, or of other town centres.

The approved Development Framework stipulates the requirement for the provision of two community sports pitches and changing accommodation.

Included in the now proposed masterplan are two community sports pitches with a four changing room facility for them and a site for allotments. Whereas in the approved masterplan the sports pitches and allotments were all to be located on land to the south of the new distributor road, it is now proposed that the sports pitches be located adjacent to the school site at its southwestern edge. One of those proposed pitches would be a 3G artificial pitch, of a type which would allow for much more intensive use than a grass pitch. The allotments would remain in a similar position to that approved by the masterplan, where they would now be adjacent to housing units rather than the sports pitches.

These community uses and the locations indicated for them in the masterplan are as accessible as previously approved to existing residents of Wallyford and in this they are consistent with the requirements of the approved Development Framework. The provision of the two community sports pitches, four changing room facility and allotment site can be secured by 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 this appropriate developer contribution the principle of these elements of the development is consistent with the approved Developer Framework.

Sportscotland, as a consultee on this planning application, welcome the proposals provision of two community sports pitches. They offer detailed comments in respect of school sports provision which can be taken into account in the detailed design of the school layout and facilities.

The Council's Service Manager, Sport, Countryside and Leisure confirms that the level of sports facilities provision required in for the development as now proposed had been agreed in previous discussions and that the required level of provision has been designed into this proposal.

The development will infill agricultural and other countryside land between the existing south edge of Wallyford and the A1 (T) trunk road. The Service Manager, Sport, Countryside and Leisure advises in respect of this application for a 1450 residential unit development that, so expanded, Wallyford will lack an adequate countryside network on the edge of town because of its proximity to Musselburgh and the railway line in the north and restrictions of the A1 in the south. He notes that the Fa'side right of way (Core Path 168) is the only crossing point over the A1 so it is a key connection to the countryside. His advice is that in its current condition Core Path 168 over that crossing point could not

support increased levels of use. He therefore recommends that the Core Path route within the development boundary and south up to Fa'side Castle where it links to the wider path network be upgraded. Subject to an appropriate upgrade being carried out, which can be required by a condition of a grant of planning permission in principle the Service Manager, Sport, Countryside and Leisure has no objection to the proposals.

The Service Manager Sport, Countryside and Leisure also advises that a residential development of this scale requires good provision for functional travel (commuting, safe-routes to school) and for recreation. He notes that a cyclepath follows the main distributor road, but advises that it must connect meaningfully with other cycling provision in Wallyford to create a cyclepath network, particularly where it intersects with the existing core path network. He recommends that these routes be upgraded to adoptable cyclepath standard, that the Core Paths connect with Inchview Road and that cycle provision be upgraded on these roads also. These matters can form part of the detailed design requirements for the development.

As previously approved the Wallyford Community Woodland between the southern edge of Wallyford and the A1 trunk road would be upgraded and the requirement for the developer to submit details of the upgrading of the Community Woodland and a timetable for implementation should again be made a condition of an approval of planning permission in principle with applicant transferring the title of the Community Woodland site to the Council at no cost and providing a commuted sum for its future maintenance for a 10 year period. The commuted sum would also cover maintenance for a 10 year period of the two proposed community sports pitches and the open space that is immediately adjacent to it. The effect of these arrangements would be to bring the central part of the application site into public control for use and maintenance for public recreation in a manner that would retain and further develop the open space aspect of the existing Community Woodland and enable a formal recreational use of the land concerned.

An agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 can secure the transfer of ownership of the land and the financial contribution towards maintenance of it and the two proposed community sports pitches and the open space that is immediately adjacent to it.

The masterplan indicates how other areas of formal and informal open space could be located throughout the site. In total there would be some 8.7 hectares of open space to serve the development. The Service Manager for Sport, Countryside and Leisure advises that he is satisfied with the size and location of those areas of open space. In this respect the proposals comply with Policy C1 of the adopted East Lothian Local Plan 2008 and with the approved Development Framework.

The outline landscape proposals for the site correspond with the landscape advice set out within the approved Development Framework.

In respect of all of these design and open space considerations, what is now proposed as an intensified form of mixed use development would be a sympathetic extension of Wallyford with due regard to its urban traditions and its existing built form. In the information provided with the application and in the proposed layout and design, provision of open space and affordable housing the proposals, subject to conditions of design principles, comply with Policies H4, INF3, DP5, DP1, DP3, DP4, DP5, DP23, DP24 and C1 of the adopted East Lothian Local Plan 2008.

Proposal H7 of the adopted East Lothian Local Plan 2008 requires that development of the site must result in a significant improvement in traffic conditions within Wallyford,

particularly along Salters Road. This is also a stated requirement of the approved Development Framework.

A detailed scheme of environmental and traffic calming improvements to Salters Road was promoted through the drawings and report that accompanied previous planning applications 09/00222/OUT and 12/00924/PPM were part of the traffic impact assessment of the proposed development made in the applicant's Traffic Assessments. The detailed scheme of environmental and traffic calming improvements to Salters Road remain part of the proposal the subject of this planning application.

Included within the Environmental Statement is an update to the previous Transport Assessments and also the findings of additional modelling work for the now proposed masterplan of 1450 residential units and which forecasts operational phase traffic generation and road network impacts.

The Council's Roads Services advises that as requested as part of application 12/00924/PPM, given the time that had elapsed since application 09/00222/OUT and the original Transport Assessment, and planning permissions and proposals for other developments in the vicinity, that the traffic model be updated with current traffic flows. It also required updating to take into account local infrastructure improvements such as the A68 Dalkeith Bypass which was not constructed at the time of the original Transport Assessment.

Roads Services further advises that the updated traffic model looked at various development scenarios and also investigated the impact of 1450 residential units rather than solely the 1050 unit proposal. Their conclusion was that the updated model illustrates, as per the previous model, that the proposed deflection strategy in place for the 1050 unit development would allow the road network to operate satisfactorily for the proposal for 1450 units. They note that the updated model was also audited by Transport Scotland in respect of the trunk road interchanges and was found to be to their satisfaction.

Roads Services therefore concludes that as with the previous application, with the proposed development in place together with traffic calming on Salters Road there would be a significant reduction in through traffic on that road; that implementation of traffic calming measures on Salters Road should also help to lower vehicle speeds; and the capacity of the local road network, including the A1/A6094 Salters Road and A1/A199 Dolphingstone Interchanges, would be sufficient to accommodate traffic generated by the proposed development

Roads Services therefore confirm that the current 1450 proposal as set out on Masterplan Drawing Number: 13052(PL)001-C submitted as part of the application is acceptable subject to detailed layouts. They are satisfied that the scheme of improvements and traffic calming proposed for Salters Road would be successful in delivering significant and acceptable improvement in traffic conditions on Salters Road and thus within Wallyford.

Therefore they have no objection to the principle of the proposed development of the application site subject to their recommended conditions for a grant of planning permission in principle to ensure that appropriate off site road improvement works are undertaken, that various identified road safety measures are undertaken, that an appropriate amount of car parking be provided within the new local centre, that a Green Travel Plan be submitted, and that construction traffic movements be controlled.

The approved Development Framework requires the applicant to examine the possibility of using Inchview Road as an access for buses entering and exiting the new local centre, although it makes clear that general unrestricted access for other vehicles will not be permitted on Inchview Road as it is traffic calmed and narrow at its southern end. It is now proposed that the Distributor Road is completed to base course level throughout its length and brought into use before any houses are occupied. Therefore there would be an appropriate route for bus services and the Inchview Road bus link would not be required.

Transport Scotland does not object to the principles of the proposed development. It advises that the development as now proposed for 1450 residential units does not breach their threshold for further assessment in respect of environmental effects of increased traffic on matters including driver and pedestrian delay and that further assessment is not required. In respect of noise they consider the applicant's Noise Assessment acceptable though note they will require to approve more detailed noise mitigation measures. They also require that details of the landscape planting and fencing along the boundaries of the trunk road be approved by them.

Whilst Transport Scotland raise no objection to the proposals they recommend that prior to the commencement of development: a) proposals for the alteration and re-activation of the existing traffic signal installation at the A1/ A6094 junction have been approved in writing by the Planning Authority; b) the proposed scheme of traffic calming for Salter's Road has been completed; and c) revised signal timing plans for the existing traffic signal installation at the A1/A199 junction should be submitted to and approved by the Planning Authority.

All of these Transport Scotland requirements can be met by use of conditions of a grant of planning permission in principle.

Transport Scotland raised concerns in respect of the previous applications for the site in relation to the development impact on the junction of the A1 trunk road and the A720 trunk road (i.e. the Old Craighall Junction south of Musselburgh, at the western end of East Lothian). In mitigation of this they sought a developer contribution, secured by an agreement with the applicant under Section 48 of the Roads (Scotland) Act. They confirm that any mitigation required in respect of Old Craighall Junction can be met through that existing agreement. On that basis, Transport Scotland raise no further objection to the impact of the development on the Old Craighall junction.

On all of these above transportation considerations the principles of the proposed development are consistent with Policies T1 and T2 of the adopted East Lothian Local Plan 2008.

A material consideration in the determination of previous planning application 09/00222/OUT was the scheduled ancient monument of the cropmark site at Wallyford Toll, located on part of the northern edge of the application site. Condition 12 of planning permission in principle 09/00222/OUT required the erection of a protective fence around the scheduled ancient monument. In their consultation response on application 12/00924/PPM Historic Scotland advised that the cropmark site at Wallyford Toll has been descheduled. As that part of the site is no longer a scheduled ancient monument, there is no requirement to impose a condition requiring the erection of a protective fence and the principle of development of it is acceptable subject to appropriate archaeological investigation.

The Council's Archaeology Officer advises that significant archaeological assessment of the site has already been undertaken but awaits some further work for completion.

Accordingly he recommends that a watching brief and post excavation work be carried out by a professional archaeologist to complete the evaluation of the application site for any potential archaeological remains. This can be controlled through a conditional grant of planning permission in principle. This approach is consistent with Scottish Planning Policy: February 2010, Planning Advice Note (PAN) 2/2011: Planning and Archaeology and with Policy ENV7 of the adopted East Lothian Local Plan 2008.

The application site is within the inventory boundary of the Battle of Pinkie. The Battle of Pinkie is included within the Inventory of Historic Battlefields. This has been considered in the previous applications and Historic Scotland raised no objection to the principles of the proposed development, being satisfied that it would not have an unacceptable impact on the site of the Battle of Pinkie.

The application site is bounded to the south by the A1 (T) trunk road and includes Salters Road and part of the A199 road. The Environmental Statement includes a noise report and an air quality report. The Council's Environmental Protection Group Leader raises no objection to the proposed development of 1450 residential units on the site as now proposed and in this she accepts the findings of the Environmental Statement. She is otherwise generally satisfied in respect of the noise attenuation measures in respect of the A1 specified in the applicant's noise assessment, including earth bunds and acoustic fences. However, she does raise some concerns.

One concern is that noise from Wallyford Industrial Estate may have a harmful impact on the privacy or amenity of the new housing. She therefore recommends that the impact of noise from the industrial site is assessed and, if necessary, suitable mitigation measures be incorporated into the development design. No such recommendation was made by the Council's then Senior Environmental and Consumer Services Manager in his consultation response on previous planning application 09/00222/OUT. As is indicatively show on the masterplan, the proposed housing would be located considerably further away from the Industrial Estate than existing housing, some of which is located immediately adjacent to the Industrial Estate. Whilst the Environmental Protection Group Leader advises that she is aware of previous complaints from local residents regarding industrial operations, she does not provide any details of any unacceptable noise emissions from any of the industrial units. In view of all of this, it would not be reasonable to now require the applicant to undertake a noise assessment of the existing Industrial Estate.

The Environmental Protection Group Leader further recommends that suitable barriers should be provided to ensure that noise levels in both the front and rear gardens of the houses within the eastern part of the site do not exceed 55 dB (A). The applicant's noise update advises that noise levels of 65 dB (A) would be acceptable in those front gardens. They advise that the noise levels within the rear gardens of those houses would be 55 dB (A), which BS 8233 Sound Insulation and Noise Reduction for Buildings - Code of Practice advises is a 'reasonable' standard.

BS 8233 Sound Insulation and Noise Reduction for Buildings - Code of Practice advises that for dwellings, the main criteria are reasonable resting/sleeping conditions in bedrooms and good listening conditions in other rooms. A condition can be imposed to ensure that all residential units, including those within the eastern part of the site, are designed so that the 'good standard' indoor levels from Table 5 of BS 8233 are met inside the proposed houses. Whilst it may be the case that noise levels in the front gardens of those houses exceed 55 dB (A), the Environmental Protection Group Leader is satisfied that noise levels in the rear gardens of those houses would not exceed 55 dB (A). It is within those rear gardens where residents would be most likely to relax and enjoy their homes. Given this, it would be unreasonable to require the applicant to

provide suitable barriers to ensure that noise levels in the front gardens of the houses within the eastern part of the site do not exceed 55 dB (A).

In relation to the proposed local centre retail and commercial units the Environmental Protection Group Leader recommends that appropriate restrictions on delivery times be imposed, together with a standard condition on noise output from any plant and machinery associated with those buildings and uses. She further advises that it is not clear if flood lighting is to be provided at the proposed sports pitches and that if so this should be controlled to minimise light pollution. These matters would be appropriately dealt with through control of any grant of approval of matters specified in conditions.

In respect of air quality the Council's Principal Environmental Protection Officer is satisfied that the operational phase of the development would not result in a significant increase in nitrogen dioxide emissions which would impact on the Musselburgh Air Quality Management Area. He recommends that any grant of planning permission in principle be subject to conditions requiring a construction management plan, a green travel plan, installation of ultra low nitrogen dioxide boilers within the proposed dwellings and suitable electrical layout within dwellings to enable installation of electric vehicle charging points. The matters of internally fitted boilers and electrical layout are subject to Building Standards legislation which should not be duplicated by use of planning controls.

The above appropriate environmental protection controls can be exercised by conditions of a grant of planning permission in principle for the proposed development of the site, to include details of all proposed noise mitigation measures and a timetable for their implementation in the course of the development.

To address comments from the Council's Environmental Protection Officer (Contaminated Land) in respect of contaminated land, a condition can be imposed on a grant of planning permission in principle for the proposed development requiring a contaminated land investigation be undertaken prior to the commencement of any development.

The requirement for the erection of a new school as part of the new local centre is established through the approved Development Framework. The principle of the provision of this new school is set out in the applicant's masterplan. The site of the proposed school lies on land in the ownership of the applicant. The Council's Depute Chief Executive (Resources and People Services) advises that this should be as shown in the applicant's masterplan with the site formed to meet masterplan boundary perimeter levels.

The Depute Chief Executive (Resources and People Services) advises that the cumulative effect of all the housing development proposed in the Wallyford area will be to generate pupil numbers that cannot be accommodated at the existing nursery school, primary school and the catchment secondary school.

The Depute Chief Executive (Resources and People Services) further advises of the need for developer contributions of £11,307,811 (£7,798.49 per unit) towards the cost of building the new primary school (with nursery school) and £3,788,073 (£2612.46 per unit) towards the provision of additional accommodation at Musselburgh Grammar School, or, should the Council review secondary school provision in the Musselburgh catchment with a resultant implementation of an alternative strategy, towards any subsequently redefined provision of secondary education within the Musselburgh secondary catchment area.

The Depute Chief Executive (Resources and People Services) also advises that Wallyford Primary School will require temporary accommodation to meet committed development from August 2015 until the new primary school is complete (envisaged to be June 2018). Should the applicant wish residential units to be occupied prior to the completion of the new school a similar temporary solution will be required. Based on the applicant's proposed completions from 2016 this would mean provision of a further temporary classroom and ancillary space for which a contribution of £80,000 would be required.

Thus there should be a total developer contribution towards education provision of £15,175,884 (£10,466.13 per unit). Such developer contributions can be secured by an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the test of reasonableness of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. So too can the transfer of the site for the school. Subject to the Council securing the site and the appropriate developer contributions 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 the developer makes appropriate provision for infrastructure required as a consequence of their development. The applicant's agent has confirmed in writing that his client is willing to enter into such a Section 75 Agreement.

A projection of school rolls based on the number of houses likely to be brought forward by the proposed housing developments in the Wallyford area concludes that total house numbers of the development should be controlled to the 1450 residential units applied for and the completion rates controlled to those set out on page 4 of the applicant's supporting statement, commencing with 90 units in year 1, thereafter 150 units per annum in years 2 - 10 and 10 units in year 11 houses. This can be exercised by conditions imposed on a grant of planning permission in principle for the proposed development of the site.

The approved Development Framework states that there is a developer contribution requirement to provide a new public library to meet needs arising as a result of this development. In her consultation response on planning application 09/00222/OUT, the Council's Principal Libraries Officer advised of the need for a developer contribution of £870,674.70 towards the provision of a new library, including furniture and fittings but excluding stock. The Planning Committee resolved to grant planning permission in principle 09/00222/OUT subject to the prior conclusion of a legal agreement to secure this financial contribution amongst other matters.

The Council's Service Manager, Customer Services was consulted on the proposal the subject of this current planning application (Ref: 12/00924/PPM). She confirmed that the current library in Wallyford is mainly used by children rather than adults. The new primary school would include within it a school library, which would be used by local children. This would be designed to be accessible by the local community, and so the option of community use of the school library can be explored. In light of this and having carefully reviewed the matter, the Service Manager, Customer Services advised that it is no longer necessary for the developer to make a financial contribution in respect of providing a new public library. The Service Manager, Customer Service has not requested any contribution in respect of the application now under consideration.

The proposed development by its scale and prominent public location 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 in principle for the proposed

development.

The Scottish Environment Protection Agency (SEPA) advise that they have no objection to the proposals in respect of flood risk or surface water drainage subject to a grant of planning permission in principle including conditions requiring provision of an integrated sustainable urban drainage scheme (SUDs) for surface water drainage arrangements based on CIRIA's SUDS manual and a submission of a construction method statement including for surface water run-off management during construction. SEPA confirm that they are satisfied with the principles of the drainage proposals. They offer further comments in respect of their own regulatory requirements which have been copied to the applicant's agent.

Scottish Water makes no comment on the proposals.

In view of the extensive coal mining activity that has previously been carried out on the site, the Coal Authority reiterates comments made in response to application 12/00924/PPM in respect of the applicant's Environmental Statement and the need to ensure ground conditions are afforded due consideration. They raise no objection to the principles of the now proposed development of 1450 residential units.

Section 59 of the Town and Country Planning (Scotland) Act 1997 sets a standard duration in relation to a planning permission in principle (i.e. planning permission subject to a condition that the development in question will not be begun until certain matters have been approved by the Planning Authority. The Act requires that applications for the approval required before development can be begun must be made within 3 years from the grant of planning permission in principle but also provides that the Planning Authority can issue a direction that different time periods apply in relation to the 3 year period for making an application for approval.

In respect of timescales for development this is a large scale proposal phased over a period of 11 years. Therefore it may well take more than 3 years for the submission of applications for approval for all detailed matters for all areas of the application site. In this case it would therefore be prudent for the Planning Authority to direct in this case that the standard 3 year time limit should not apply and to further direct that applications for approval required before development can be begun must be made within 8 years from the grant of planning permission in principle.

RECOMMENDATION

It is recommended that planning permission be granted subject to:

1. A direction to substitute the period of 3 years referred to in Section 59(2)(a)(i) and (3) of the Town and Country Planning (Scotland) Act 1997 (as amended) with a period of 8 years.

2. The undernoted conditions.

3. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:

(i) the provision of two community sports pitches (one of which is a 3G pitch), a four changing room facility and an allotment site;

(ii) the transfer to the Council, at no cost, of ownership of the Wallyford Community

Woodland;

(iii) the provision of a commuted sum for the future maintenance of Wallyford Community Woodland for a 10 year period. The commuted sum shall also be sufficient to cover maintenance for a 10 year period of the two proposed community sports pitches and the open space that is immediately adjacent to it;

(iv) the transfer of the land required for the new school site as shown in the applicant's masterplan, with the site formed to meet masterplan boundary perimeter levels;

(v) a financial contribution to the Council of £11,307,811 towards the provision of the new primary school, £3,788,073 towards additional secondary school accommodation at Musselburgh Grammar School or any subsequently redefined provision of secondary education within the Musselburgh secondary catchment area and £80,000 towards temporary primary school provision;

(vii) the provision of 363 affordable housing units within the application site or if it can be demonstrated to the Council that this, or the off-site provision of 363 affordable units is not practicable, to secure from the applicants a commuted sum payment to the Council in lieu of such an on or off-site provision;

4. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to insufficient future maintenance and ownership arrangements for, as relevant, Wallyford Community Woodland and the two proposed community sports pitches and the open space that is immediately adjacent to it, an insufficient provision of community sports pitches, related changing facilities and allotments, a lack of sufficient primary and secondary school capacity, and the lack of provision of affordable housing, contrary to the Council's Development Framework for the development that is titled Wallyford Settlement Expansion & Regeneration and, as applicable Policies INF3 and H4 of the adopted East Lothian Local Plan 2008.

1 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of all the dwellings and other buildings, the means of access to them, the means of any enclosure of the boundaries of the site and of gardens and other subdivisions of the site and the landscaping of the site and those details shall generally accord with the Indicative Master Plan drawing no. 13052(PL)001-C docketed to this planning permission in principle, and shall address the following requirements:

a. The provision within the application site of recycling facilities.

b. Other than in exceptional circumstances where the layout or particular building type does not permit, houses and flats shall be orientated to face the street.

c. Notwithstanding that shown in the Indicative Master Plan docketed to this planning permission in principle there shall be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary street frontage;

d. The detailed design of the layout shall accord with the principles set out in the Council's Design Standards for New Housing Areas and with Designing Streets;

e. The external finishes of the residential units shall be in accordance with a coordinated scheme of materials and colours that shall respect the layout of the development and shall promote render as the predominant finish to the walls of the residential units.

f. Notwithstanding the details shown in the Indicative Site Master Plan referred to above, there shall be a separation distance of at least 9 metres between facing windows of a proposed new building and the garden boundaries of existing or proposed neighbouring residential properties; and a separation distance of at least 18 metres between directly facing windows of a proposed new building and the windows of existing or proposed neighbouring residential properties.

g. Details of the play areas, including the equipment to be provided within it and a timetable for installation, shall be submitted to and approved in advance by the Planning Authority. The play areas shall be installed in accordance with the details so approved.

h. Parking for the residential, local centre and primary school components of the development hereby approved shall be provided at a rate as set out in the East Lothian Council's "Standards for Development Roads- Part 5 Parking Standards" For the local centre and school this shall include for cycle parking Private parking spaces in the local centre and other private parking areas shall be a minimum of 2.5 metres by 5 metres and spaces on the public road shall be a minimum of 2.5 metres by 6 metres. Access to private parking areas other than driveways shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first ten metres. Private driveways shall be a minimum of 6 metres by 2.5 metres, double driveways shall be 5 metres by 6 metres or 3 metres by 11 metres.

i. All access roads shall conform to East Lothian Council's "Standards for Development Roads" in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming measures.

j. Cycle parking shall be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed.

k. The provision of a vehicular access from the new distributor road to the site of the residential institution/ non-residential institution unit/ retirement homes use hereby approved.

l. The provision of pedestrian crossing points on Fa'side Avenue South to link the proposed new footpath behind the existing tree line to the existing footpath on the northern side of Fa'side Avenue South.

m. The provision of a 2 metres wide footway on the southern side of the A6094 road between the northern end of the existing footpath link that runs between Fa'side Crescent/ Fa'side Avenue South and the A6094 road, over the full extent of the new 30 mph speed limit to the western side of the western access; and the provision of a 2 metres wide footway on the south side of the A199 between the existing roundabout at Wallyford Toll to the point of the new 30mph speed limit on the eastern side of the eastern access to the site at Strawberry Corner.

n. The provision of a minimum of 135 parking spaces within the new local centre, for non-residential use.

o. The provision of a 1.2 metre high wall along the northern boundary of the site.

p. provision of footpath/cycleway linkages between the existing core path network and the internal layout of the development and a footpath link to an adoptable standard between the development site and Wemyss Gardens.

Reason:

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

2 The details to be submitted pursuant to condition 1 shall include a revised phasing plan which shall accord with the following requirements:

(i) The traffic calming and environmental improvement works to be undertaken on Salter's Road completed prior to the commencement of development, unless otherwise approved in writing by the Planning Authority following consultation with Transport Scotland.

(ii) Any improvements to the Wallyford and Dolphingstone interchanges as outlined in the transportation assessment to be undertaken prior to the commencement of development, unless otherwise approved by the Planning Authority following consultation with Transport Scotland.

(iii) Pedestrian links between each phase of development and the existing settlement to be provided prior to the occupation of the first dwelling house in each phase unless otherwise agreed with the local planning authority.

(iv) The supermarket(s) and local centre units must be complete and ready for letting by occupation

of the 675th residential unit unless otherwise agreed with the local planning authority.

(v) The Distributor Road shall be completed in its entirety to base course level and brought into use prior to the occupation of the first residential unit and all pedestrian links connecting the residential development areas shall be completed to adoptable standard prior to the first occupation of the new primary school.

(vi) The sports pitches, changing accommodation and allotments to be completed by occupation of the 675th residential unit unless otherwise agreed in writing with the local planning authority.

(vii) The bus layover and passenger waiting facilities to be completed and available for use by occupation of the 675th residential unit unless otherwise agreed in writing with the Planning Authority.

(viii) Improvements to the community woodland to be completed by occupation of the 675th residential unit or occupancy of the new primary school, whichever is first, unless otherwise agreed in writing with the Planning Authority.

(ix) The eastern section of the distributor road footpaths between the Strawberry Corner access junction and the new primary school shall be finished to an adoptable standard with final surfacing prior to the first opening of the new primary school.

The phasing of the development of the site shall be carried out in strict accordance with the phasing plan so approved, unless otherwise approved in writing in advance by the Planning Authority.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site.

- 3 The development of the site shall conform with the minimum density requirements established for the identified development areas shown on docketed drawing no. 13052(PL)005-B as well as generally complying with the range of house types and sizes shown on the same drawing.

Reason:

To ensure compliance with the provisions of the development plan.

- 4 No more than 1450 residential units shall be erected on the site.

Reason:

To ensure that there is sufficient education capacity, to restrict the scale of development to that applied for and identified in the applicant's Transport Assessment and to minimise interference with the safety and free flow of traffic on the trunk road.

- 5 Unless otherwise approved in writing by the Planning Authority:

(a) Housing completions in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion rates:

Year 1- 90 residential units
Year 2- 150 residential units
Year 3- 150 residential units
Year 4- 150 residential units
Year 5- 150 residential units
Year 6- 150 residential units
Year 7- 150 residential units
Year 8- 150 residential units
Year 9- 150 residential units
Year 10- 150 residential units
Year 11- 10 residential units

(b) If fewer than the specified number of residential units is completed in any one year then those shall be completed instead at Year 11 or beyond and not added to the subsequent Year.

(c) No more than 270 residential units shall be occupied prior to the completion of the primary school.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 6 Unless otherwise approved in writing in advance by the Planning Authority, the uses and unit sizes of the commercial units within the new local centre shall accord with the additional information

document that is docketed to this planning permission in principle.

No more than 2731 square metres (gross) of the total gross floor space of the commercial units shall be used for convenience retail and no more than 603 square metres (gross) of the total gross floor space of the commercial units shall be used for comparison retail.

Reason:

In order to retain control over the format of retail and other commercial development in the interests of the vitality and viability of the new local centre.

- 7 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of : the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development. It shall also include details of all planting and landscaping along the boundary of the site with the A1(T) trunk road.

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 Prior to the commencement of development a long term landscape and habitat management plan shall be submitted to and approved in writing by the Planning Authority.

Reason:

To maximise the ecological potential of the proposed development.

- 9 Prior to the commencement of development a woodland management plan for the community woodland shall be submitted to and approved in writing by the Planning Authority. The plan shall further the value of the resource for biodiversity as well as people, and shall include the following measures:

- * Formalisation and lighting of key footpaths to adoptable standard, including the east-west footpath through it. These will give access to the new local centre and school;
- * Provision of cycleways where required;
- * Informal surfacing of secondary paths;
- * Provision of additional lighting and seating in appropriate locations; and
- * Enhancement of the existing viewing area and clearing at the summit of the woodland.

The plan shall cover a 15 year period, to be split into 5 year periods, and shall include a timetable for implementation, including that the east-west path, which shall include street lighting and which shall be made up to an adoptable standard, be constructed and brought into use prior to the first occupation of the new school.

The requirements of the woodland management plan shall thereafter be carried out in accordance with the details so approved.

Reason:

To maximise the ecological potential of the proposed development.

- 10 A Green Travel Plan shall be submitted to and approved by the Planning Authority prior to the first use of any component of the mixed use development. The Green Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

The Green Travel Plan shall thereafter be implemented in accordance with the details so approved.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the mixed use development and mitigating air quality impacts.

- 11 Prior to the commencement of development details of bus infrastructure shall be submitted. This shall include for:

- (i) A bus layover area shall be identified at the local centre. The bus layover area shall be designed to include passenger waiting facilities;
- (ii) Bus infrastructure on the Distributor Road including Kassel kerbing, bus shelters and at stops close to the local centre 'Crank' real time information poles;
- (iii) A timetable for its implementation.

Thereafter the details so approved shall be implemented prior to the use of the Distributor Road as a bus route, unless otherwise agreed in writing by the Planning authority. Cf above

Reason:

In compliance with Policy DP21 of the adopted East Lothian Local Plan 2008

- 12 Prior to the commencement of development the findings of an independent road safety audit of the traffic calming and other environmental improvements of Salters Road shown on docketed drawing nos. ED1141-1047 to ED1141-1051 inclusive shall be submitted to and approved in writing by the Planning Authority.

The traffic calming and other environmental improvements of Salters Road shall thereafter be fully undertaken in accordance with docketed drawing nos. ED1141-1047 to ED1141-1051 inclusive and the approved findings of the independent road safety audit prior to the commencement of development, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of road safety.

- 13 Prior to the commencement of development the findings of an independent road safety audit of the design of the environmental improvements of Inchview Road shown on docketed drawing no. ED11411-1052 shall be submitted to and approved in writing by the Planning Authority.

The Inchview Road link to the new local centre shall be a pedestrian and cycle route only. Details of this, including turning facilities on both sides of the access point shall be submitted to and approved in writing in advance by the Planning Authority.

Prior to the first occupancy of the new primary school or of any of the other buildings of the local centre, whichever is sooner, the environmental improvement of Inchview Road and the pedestrian/cycle link and turning areas shall be fully carried out in accordance with docketed drawing no. ED11411-1052 and the approved findings of the independent road safety audit.

Reason:

In the interests of road safety.

- 14 Prior to their installation, details of formal signalised pedestrian crossing points on the Distributor Road shall be submitted for the approval of the Planning Authority. This shall include crossing points on relevant pedestrian desire lines to the local centre and school, as agreed with the Planning Authority. Thereafter the signalised pedestrian crossing points shall be constructed and brought into use prior to the occupation of any house or flat built to the south, east or west side of the Distributor Road.

Reason:

In the interests of road safety.

- 15 The new Distributor Road through the site shall have traffic calming measures to reduce vehicle speeds along its route and this shall include raised tables at junctions and crossing points with appropriate speed bumps at other locations, and shall have, where there are housing frontages to the Distributor Road, measures to stop residents and visitors parking on the Distributor Road; details of all of which shall be submitted for the prior approval of the Planning Authority.

Prior to the commencement of development the findings of an independent road safety audit of the traffic calming and other environmental improvements of the new distributor road shown on docketed drawing nos. ED11411-1040 to ED11411-1046 inclusive shall be submitted to and

approved in writing by the Planning Authority.

The audit shall include all access junctions, bus stops, raised tables, and signalised junctions/crossing points. It shall include details of safe crossing locations for pedestrians travelling to and from the new Town Centre in a north to south direction.

The traffic calming and other environmental improvements of the new distributor road shall thereafter be fully undertaken in accordance with docketed drawing nos. ED11411-1040 to ED11411-1046 inclusive and the approved findings of the independent road safety audit prior to the whole of the new distributor road being opened to vehicular traffic.

Reason:

In the interests of road safety and in securing the vehicle deflection strategy set out in the Transport Assessment.

- 16 A monitoring program of traffic flows on Salters Road and the new distributor road shall be put in place to ensure that the deflection measures are operating to the satisfaction of the Planning Authority. Traffic count surveys shall be completed on occupancy of the 175th unit, the 450th unit, the 675th unit, and on completion of the development. The findings of the traffic count surveys shall be submitted to the Planning Authority within a period of two months from the date of the traffic count, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interest of road safety.

- 17 No development shall take place until the applicant has submitted to and approved in advance a signage strategy for the application site. The strategy shall identify and promote key pedestrian, cycle and vehicle routes to and from the new local centre from both the existing settlement of Wallyford and from the other components of the mixed use development hereby approved.

Reason:

In the interests of encouraging sustainable travel patterns in respect of the mixed use development.

- 18 Prior to the commencement of development a detailed condition survey of the construction access route from Dolphingstone and Salters Road interchanges shall be jointly undertaken by the developer and East Lothian Council Roads Services. During the period of construction of the development a similar joint inspection shall be carried out to assess the condition of the route on each anniversary of the commencement of development. Any damage identified as a result of construction activities shall be repaired or resurfaced by the developer in compliance with the Council's specifications and requirements at no cost to the Council as Roads Authority.

Reason:

In the interests of road safety.

- 19 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area and to ensure the protection of the water environment from potential pollution during the construction phase of the development, shall be submitted to and approved by the Planning Authority, following consultation with the Scottish Environment Protection Agency, 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 work. It shall also address the temporary measures proposed to deal with surface water run off during construction in accordance with the requirements of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 and General Binding Rules. The Construction Method Statement shall also make recommendations in respect of how pedestrians and school children can safely access the new school during construction works. These recommendations shall include the eastern section of the distributor road and footpaths from the new Strawberry Corner access being finished to an adoptable standard with final surfacing prior to the opening of the new school.

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 and to mitigate against surface water flood risk.

- 20 The details to be submitted pursuant to condition 1 above shall include full details of all noise

mitigation measures. These shall be based on the mitigation measures identified in the Environmental Statement and shall be designed so that the 'good standard' indoor levels from Table 5 of BS 8233 Sound Insulation and Noise Reduction for Buildings- Code of Practice are met inside the proposed residential units. The mitigation measures shall include the erection of an acoustic barrier along the southern boundary of the site. The details to be submitted shall also include a timetable for the implementation of all of the proposed noise mitigation measures.

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

Reason:

To ensure an appropriate level of acoustic screening in the interests of the amenity of the future occupants of the site.

- 21 Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme, which shall include a detailed gas survey (long term monitoring) and a detailed groundwater monitoring exercise, shall contain details of the proposals to deal with contamination to include:

- 1 the nature, extent and type(s) of contamination on the site,
- 2 measures to treat/remove contamination to ensure the site is fit for the use proposed,
- 3 measures to deal with contamination during construction works,
- 4 condition of the site on completion of decontamination measures.

Before any of the buildings are occupied the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

Reason:

To ensure that the site is clear of contamination prior to the occupation of any of the buildings.

- 22 No housing units of the development shall be occupied unless and until the following requirements have been met:

a. the existing 30 miles per hour speed limit has been extended along the frontage of the site on the A199 road from the existing 30 mph limit at Wallyford Toll, up to the eastern side of the proposed new access at Strawberry Corner; and

b. the existing 30 miles per hour speed limit has been extended along the frontage of the site on Salter's Road from the existing 30 mph limit at Fa'Side Crescent, up to the western side of the proposed new access on the A6094 road.

Details of the proposed extension to the existing 30 miles per hour speed limit shall be submitted for approval by the Planning Authority. These measures shall be implemented in accordance with the details as approved by the Planning Authority.

Reason:

In the interests of road safety.

- 23 The proposed eastern and western vehicle site accesses shall be designed in accordance with the Design Manual for Roads and Bridges, Volume 6. An independent road safety audit shall be undertaken (and submitted to the Planning Authority for approval) for the final design drawings of the those two site accesses.

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

Reason:

In the interests of road and pedestrian safety.

- 24 There shall be no commencement of development unless and until:

a) proposals for the alteration and re-activation of the existing traffic signal installation at the A1/A6094 junction have been approved in writing with the Planning Authority, in consultation with Transport Scotland; and

b) revised signal timing plans for the existing traffic signal installation at the A1/A199 junction have been submitted and approved in writing with the Planning Authority, in consultation with Transport Scotland.

The details to be submitted shall include a timetable for their implementation.

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

Reason:

To mitigate the adverse impact of the development on the safe and efficient operation of the trunk road.

- 25 The development shall be carried out in accordance with an approved programme of archaeological work (watching brief and post excavation work) on the site of the proposed development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 26 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.

- 27 Prior to the commencement of development, a SUDS scheme shall be submitted for the written approval of the planning authority, in consultation with the Scottish Environment Protection Agency, and all work shall be carried out in accordance with the approved scheme.

Reason:

To ensure adequate protection of the water environment from surface water run-off.

- 28 Unless otherwise agreed in writing by the Planning Authority, prior to the occupation of any of the houses of the development hereby approved the route of Core Path 168, from within the site south across the A1 footbridge to Fa'side Castle, shall be upgraded by the developer or any succeeding party to a specification to be agreed in writing in advance with the Planning Authority.

Reason:

In the interests of the amenity of the area and recreational access for the residents of the development.

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 30 June 2015
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

3

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.

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)