

PLANNING COMMITTEE
TUESDAY 3 NOVEMBER 2015

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

**TUESDAY 6 OCTOBER 2015
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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Committee Members Present:

Councillor N Hampshire (Convener)
Councillor D Berry
Provost L Broun-Lindsay
Councillor S Brown
Councillor J Caldwell
Councillor T Day
Councillor J Goodfellow
Councillor D Grant
Councillor W Innes
Councillor P MacKenzie
Councillor J McMillan
Councillor J McNeil
Councillor T Trotter
Councillor J Williamson

Council Officials Present:

Ms M Ferguson, Service Manager – Legal and Procurement
Mr K Dingwall, Principal Planner
Mr D Irving, Acting Senior Planner
Mr M Greenshields, Transportation Planning Officer
Mr G Talac, Transportation Planning Officer

Clerk:

Ms A Smith

Visitors Present:

Item 2 – Mr R Henderson, Mr S Short
Item 3 – Mr K Macdonald, Mr T Hardie, Mr R Bell, Mrs L Rae, Ms H Smith
Item 4 – Ms S Karsgaard, Prof. J Pickard, Prof. G Kirk
Item 5 – Ms J McShane, Mr G Cochrane
Item 6 – Mr G Brown, Ms S Davidson
Item 7 – Mr J Todd, Mr D Barrett

Apologies:

Councillor S Currie
Councillor A Forrest
Councillor J Gillies
Councillor K McLeod

Declarations of Interest:

Councillor Berry declared an interest in item 3. His reasons for taking this application off the Scheme of Delegation list had indicated a bias; he would leave the Chamber for the debate and decision on this item but would like to make a statement before leaving, in accordance with the Councillors' Code of Conduct.

Prior to commencement of business the Provost, on behalf of all Members, expressed great sympathy to Councillor Currie on his recent bereavement.

1. MINUTES FOR APPROVAL

The minutes of the Planning Committee of 1 September 2015 were approved subject to the alteration specified by Councillor MacKenzie on page 8.

2. PLANNING APPLICATION NO. 15/00136/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 14/00903/PPM – PROPOSED INFRASTRUCTURE, ACCESS, LANDSCAPING AND SITE DEVELOPMENT WORKS INCLUDING DISTRIBUTOR ROAD AND ACCESS JUNCTIONS ONTO THE A199 AND A6094, FOOTPATHS/CYCLEWAYS, SUDS BASINS, ACOUSTIC BUNDS AND DEVELOPMENT PLATFORMS AT LAND TO SOUTH, EAST AND WEST, WALLYFORD

A report was submitted in relation to Planning Application No. 15/00136/AMM. Keith Dingwall, Principal Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Russell Henderson of AECOM, transport and traffic consultants for the applicant focused on addressing Strawberry Corner Garden Centre's objections regarding their concerns about the impact of the proposal on a) the A199, b) the Garden Centre's delivery and service vehicles and c) its financial operation. The new roundabout would be to the southern side of the A199 and would introduce a new 30mph speed limit. Delivery vehicles would enter/exit the Garden Centre on a dedicated service access; there would be a separate customer access. The junction arrangements were in line with appropriate standards and had been independently audited. Regarding the impact on the operation of the Garden Centre, the vast majority of works would be to the south of the A199 which could be carried out without any disruption to their business. He stressed the public commitment from his clients regarding provision of the new primary school to Wallyford. He informed Members that work would commence on site at the beginning of November.

Mr Henderson responded to questions from Councillor Caldwell. He advised that the signal at Salters Road would be at the new link road access to the development, the pedestrian crossing location had still to be confirmed. The new roundabout would be created at the beginning of the works as it would be essential for access to the site.

Sam Shortt, representing Strawberry Corner Garden Centre, spoke against the application. The Garden Centre objected to the proposed access arrangements which would give rise to service vehicle and customer vehicle conflicts. This new proposal would compromise deliveries, may result in queuing on the roundabout which could have road safety implications. He outlined how HGVs currently accessed the Garden Centre and the differences under the proposed arrangement. He referred

to the 2012 designs/proposed layout, stating these had been acceptable. Several options had been put to the applicant but no consideration given to these. The Garden Centre only wished to keep its current delivery capacity. He requested a deferment on this application due to the implications on the business supply chain.

Mr Shortt responded to questions from Members in relation to the number of HGV movements, the possibility of timetabling deliveries, vehicles accessing the Garden Centre, then the holding and service areas and also internal vehicle movements.

Grant Talac, Transportation Planning Officer, informed Members that discussions with the applicant had taken place over the last 6 months. In Road Services view the applicant's proposal was satisfactory. The proposed relocation of the roundabout further south would create stacking room for HGVs. The previous layout, referred to by Mr Shortt, had not separated delivery and customer access; this new proposal did, which was an improvement. In response to additional comments from Mr Shortt, Mr Talac provided further clarification. Road Services felt that the provision of separate designated accesses would reduce the potential conflict between service and customer vehicles and that the proposed access arrangements would not create a road safety hazard.

Local Member Councillor Caldwell stated that he was reassured by Mr Talac's comments in respect of the roundabout. Members had already approved planning permission in principle; this was an important development which would provide a much needed replacement primary school. This application needed to be approved today; there could be no delay to the programme of works.

Councillor Innes, on behalf of Local Member Councillor Forrest, welcomed progress on this development, which was very important for Wallyford. Councillor Forrest had expressed disappointment that there seemed to be issues for the Garden Centre in relation to the roundabout but nonetheless he did support the application.

Councillor MacKenzie welcomed this development which would include housing, retail, community buildings and a new primary school. Regarding the representation from Strawberry Corner Garden Centre he remarked that it was in a pivotal position to benefit from this new development.

Councillor Innes stated this development had been an ambition for the Council for some time; the new primary school was one of the key elements. The Garden Centre was an important local business and he did sympathise with the owners however, this development was very important to the local community and should be determined today. He added that this issue should have been dealt with beforehand.

The Convener brought the discussion to a close. He remarked that it was unfortunate that much of the debate had focused on the Garden Centre and roundabout. This was an extremely important application for Wallyford and East Lothian; the development would be a huge asset to the county and progress was welcomed.

He moved to the vote on the report recommendation (to grant consent):

For: 13
Against: 0
Abstentions: 1

Decision

The Committee agreed that approval of matters specified in conditions for the proposed infrastructure 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 finished ground 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.

Reason:

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

- 2 The stone wall to be erected along the A199 frontage of the site shall be constructed in natural stone. A sample of the natural stone to be used shall be submitted to and approved in advance by the Planning Authority. The stone wall shall thereafter be erected in accordance with the sample so approved and prior to the occupation of any of the residential units approved by the grant of planning permission in principle 14/00903/PPM, unless otherwise approved in writing by the Planning Authority.

The stone wall once erected, will thereafter be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the northern stone boundary wall is erected in the interests of the visual amenity of the area.

- 3 Prior to the commencement of development, a timetable for the implementation of all of the proposed noise mitigation measures specified in the docketed RMP Technical Report No. R-6528E-RGM-CS shall be submitted to and approved by the Planning Authority.

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

Reason:

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

- 4 Unless otherwise approved in advance by the Planning Authority, no development shall take place on site until the existing trees along Fa'side Avenue have been protected by a fence, to be approved in writing by the Planning Authority, erected around each tree or group of vegetation at a distance from each tree trunk commensurate with the tree crownspread or such distances as may be agreed in writing by the Planning Authority. Within the areas 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. Details of any trenches or services required in the fenced off areas shall be submitted to and approved by the Planning Authority prior to any such works being carried out and such trenches or services shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason:

To ensure the retention and maintenance of trees which are an important feature of the area.

- 5 The woodland planting detailed in the docketed infrastructure landscape masterplan shall be provided along all of the boundary compartments of the site, including along southern and south eastern boundaries of the site. Along the southern boundary, the woodland planting shall be planted on either side of the proposed acoustic barrier and a minimum of 15% of the trees within that woodland planting shall be of a standard variety.

Reason:

To satisfactorily integrate the development into its surroundings, in the interests of the visual amenity of the area.

- 6 Prior to the commencement of development: a) a scheme of intrusive site investigations for the site; and b) a scheme of remedial works, shall be submitted to and approved by the Planning Authority, following consultation with the Coal Authority.

Prior to the commencement of development (excluding groundworks and site regrading) the scheme of intrusive site investigations shall be undertaken and the remedial works shall be implemented in accordance with the details so approved.

Reason:

To secure the necessary site investigations for the shallow coal workings and the mine entries, together with the implementation of the necessary remedial works, in order to ensure that development does not occur above or too close to these mining hazards.

- 7 Prior to the commencement of development a signage strategy to promote the alternative road layout and access arrangements for Strawberry Corner Garden Centre shall be submitted to and approved by the Planning Authority. The strategy shall include a timetable for the display of any necessary signage.

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

Reason:

In the interests of road safety.

- 8 A bus shelter and Kassel kerbs shall be provided within the new bus stop layby to be formed to the west of the roundabout hereby approved. Unless otherwise approved in writing, the bus shelter, Kassel kerbs and bus stop layby shall be formed and made available for use prior to the occupation of any of the residential units approved by the grant of planning permission in principle 14/00903/PPM.

Reason:

To encourage sustainable forms of transport in the interests of road safety.

3a. PLANNING APPLICATION NO. 15/00563/P: ERECTION OF 2 FLATS AND ASSOCIATED WORKS AT 21 WESTGATE, NORTH BERWICK

A report was submitted in relation to Planning Application No. 15/00563/P. Daryth Irving, Acting Senior Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Councillor Goodfellow queried the description; in the design proposal the description was for a 2 storey building comprising 2 single storey flats, 1 on each floor, but in the report the description was for a single storey and attic building containing 2 flats. Mr Irving advised that the description had changed when the application was registered.

Keith Macdonald, of Somner Macdonald Architects, agent for the applicant, addressed the Committee in relation to both this application and the conservation area consent application. He made reference to the public opposition. He outlined the history of the site. He stated that Historic Scotland had listed several buildings in Westgate but not number 21. The conservation area consent process existed to allow demolition of buildings and acceptable replacement. North Berwick had, like most towns, seen many changes to its buildings over the years, many sites had been redeveloped. This proposal was very modest; high quality materials would be used to echo the surroundings. The proposed building would preserve and enhance the area.

Tom Hardie spoke against these applications on behalf of 3 neighbours residing in Bank Street and St Andrew Street. This was not a single storey building with attic space; it was quite clearly a 2 storey building. He drew attention to Policy ENV2 and the requirements regarding development of 2 or more storeys. Every effort should be made to protect business use for the ground floor level; this would be a change of

use. The proposal was therefore contrary to Policy ENV2. Regarding the demolition of the building he disputed the statement in the report that as the building was not listed then the proposal was acceptable; it was not. This was a valued building, with a valid use and should be retained as such.

Richard Bell, local resident, spoke against these applications. He had consulted the Director of the Scottish Civic Trust who had visited the site and submitted an objection. He outlined the key areas of the Trust's objection. The existing building was important to the character of the Conservation Area; it was architecturally and historically significant. He drew attention to Scottish Historic Environmental Policy regarding conservation area consent criteria for demolishing a building. In the Trust's view this existing building made a positive contribution to the character of North Berwick's Conservation Area. He added that there was a growing need for office space in towns across East Lothian; mixed use created vibrant, thriving towns.

Lyn Rae, neighbouring resident, spoke against these applications. The building was the most prominent example of a Victorian house and former coach house in North Berwick; its architecture was distinctive in design. The historic nature of the town centre was very important; this proposal was not suitable for this area. There was no just reason for demolishing this building. It was in a prime location and had been used as an office for many years. It would be detrimental to the Conservation Area to remove an old coach house and replace it with modern flats.

Hilary Smith representing North Berwick Community Council spoke against these applications. The Community Council objected to these applications for two main reasons; the negative impact on the Conservation Area and the loss of business space. The property formed part of a special Conservation Area townscape; occupying high visibility in North Berwick. Prior to its sympathetic restoration in 1975 it was a disused coach house. The loss of this building could not be outweighed by the proposed flats. With regard to business space there was concern about losing this as it was difficult to see where this could be replaced in the town.

Responding to questions Mrs Smith clarified that there were a couple of empty shop premises on the High Street, but she was not aware of any available office space.

Councillor Berry referred to the high level of concern locally about these applications. According to the report there was no requirement to market the existing building as the proposal did not involve a change of use. In his view this was a circular argument. He referred to the Scottish Historic Environmental Policy and requirements regarding conservation area consent. As highlighted by Councillor Goodfellow, this proposal was for a 2 storey building. He drew attention to the 2008 Local Plan in relation to the townscape of this area of North Berwick. He made reference to the Civic Trust award and the need to preserve the character of this building. This proposal would result in a loss of office space; it was essential to retain this as such.

Sederunt – Councillor Berry left the Chamber

Local Member Councillor Day supported his colleague's decision to bring this to Committee. He had strong reservations about these applications. Members were being asked to demolish a historic building which formed an integral part of North Berwick. The town was East Lothian's prime tourist destination, with its mix of architecture and streetscapes; caution was needed. The key test was Section 64 of Scottish Planning Policy. He also referred to Policy ENV4 of the Local Plan regarding preserving and enhancing historic areas. North Berwick was not short of new build

housing but was short of business accommodation; it would be pure folly to sacrifice business space for residential use. He would not be supporting the recommendation.

Local Member Councillor Goodfellow referred to the large number of objections from constituents who felt that the proposed new building would not preserve or enhance this Conservation Area and would lead to the loss of this historic coach house. He drew attention to the severe lack of business premises in North Berwick. The present building contributed to this use, the new flats would not. He drew attention to Policy ENV2; he stressed that this proposal was for 2 separate flats, with separate access, it was a 2 storey development. He would not be supporting the recommendation.

Councillor MacKenzie made reference to East Lothian's architectural heritage. He had been swayed by the objectors and felt this building should be kept and retained for business use. He would not be supporting the application.

Councillor Trotter remarked that the points put forward by local members and objectors had been convincing. He would also not be supporting the officer's recommendation.

Councillor Williamson agreed; the building and its setting should be preserved. He would not be supporting the application.

Councillor Innes indicated that he too had been persuaded by the objectors and would not be supporting the recommendation in the report.

Provost Broun-Lindsay shared the views of the local members and objectors. He did feel the report recommendation was based on a false premise, that the proposed building was 1 storey with attic rather than a 2 storey building. However he disagreed with the recommendation and supported the views expressed by the local members. He would not be supporting the officer's recommendation.

Councillor Grant agreed with the Provost's assessment; he would not be supporting the application.

Councillor McMillan stressed that the lack of commercial office use was a key argument, this building needed to be retained for such use. He referred to Policy ENV2, stating that to ensure the vitality and vibrancy of East Lothian's urban centres there needed to be a mix of different types of use. He would also not be supporting the report recommendation.

The Convener brought the discussion to a close. He noted from views expressed that Members were not inclined to support the officer's recommendation. Having listened carefully to all the arguments he was minded to agree with the local members; he would therefore not be supporting the application.

He moved to the vote on the report recommendation (to grant consent):

For: 0

Against: 13

Abstentions: 0

Decision

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

1. The demolition of the existing building and the erection in its place of the proposed flatted building would neither preserve nor enhance, but would be harmful to the character and appearance of the North Berwick Conservation Area.
2. The proposed development would result in the loss of a commercial property, to the detriment of the vitality and vibrancy of North Berwick Town Centre.

3b. PLANNING APPLICATION NO. 15/00563/CAC: DEMOLITION OF BUILDING AT 21 WESTGATE, NORTH BERWICK

A report was submitted in relation to Planning Application No. 15/00563/CAC. The proposed decision set out in the report was to grant consent.

The Convener moved to the vote on the report recommendation (to grant consent):

For: 0
Against: 13
Abstentions: 0

Decision

The Committee agreed to refuse conservation area consent for the following reason:

1. The proposed demolition of the building would be harmful to the character and appearance of the North Berwick Conservation Area.

Sederunt – Councillor Berry returned to the Chamber, Councillor McNeil left

4. PLANNING APPLICATION NO. 15/00492/P: ALTERATIONS AND CHANGE OF USE FROM DOMESTIC GARAGE AND PART DOMESTIC GARDEN TO ARTIST'S STUDIO AND GALLERY (CLASS 10) USE AT THE COACH HOUSE, BROADGAIT, GULLANE

A report was submitted in relation to Planning Application No. 15/00492/P. Mr Dingwall presented the report, summarising the key points. He clarified matters raised at the site visit regarding an application in 2004 at Erskine Road for conversion to an artist's studio, providing details of that application and decision; he informed Members that this previous application had not set a precedent. The proposed decision set out in the report was to grant consent.

Responding to questions from Members Mr Dingwall advised that any planning application had to clearly state what was being applied for. Regarding Class 10 use, as defined in the report, he provided further details of the Use Classes Order and how this was applied. In relation to monitoring, he indicated that applications had to be taken in good faith; it was not possible to monitor every development. In response to further questions about classifications he stated that in the view of the Planning Authority the proposal was correctly defined as Class 10 use.

Stacey Karsgaard, the applicant, informed Members she was a relief print maker and needed space to work, to produce wood and lithograph hand prints. The application was for a change of use to a studio and gallery, not for a shop. Her primary routes to sale were the internet and craft fairs. During opening hours people could come and view her work but the sale of items was not the purpose of this application. She was involved with the Poldrate Arts Centre and also hoped to be able to show selected pieces of work by other local artists. If someone was interested in purchasing one of

those pieces she would provide contact details only. This was a modest venture, with limited anticipated footfall.

John Pickard, neighbouring resident, spoke against the application. He welcomed the creation of an artist's studio but had concerns about a commercial venture at this location. This was an isolated development. There were vacant commercial opportunities in Gullane. The architectural plans were a contradiction; the proposed front looked like a shop with a full height window. The proposal for a gallery shop was contrary to Class 10 use, contrary to the residential nature of the area, and should be refused.

Gordon Kirk, immediate neighbour, spoke against the application. He wished to focus on Class 10 use, which permitted the display of works of art, otherwise than for sale or hire. The distinction made in the report stated that sales were permissible as long as this was ancillary or incidental and not the main function. The proposal contravened Class 10 use; the primary purpose was to sell works of art. He objected strongly to this application, for a commercial development in a residential area.

Local Member Councillor Goodfellow expressed concerns about the potential for business use in a predominately residential area. He drew attention to the definition of Class 10 use as detailed in the report – the display of works of art was acceptable, anything else was not. However, the next paragraph in the report referred to a statement from the applicant regarding the sale of items, therefore other than Class 10 use. For that reason he would not be supporting the report recommendation.

Local Member Councillor Day appreciated the applicant's motivation but had concerns that this was in de facto a retail unit; it would have a shop front, it would sell goods. This was a residential area; the application was wholly unacceptable. He also had concerns about creating a precedent; if approved, this would be a difficult position to sustain if another similar proposal came forward. He would not be supporting the officer's recommendation.

Local Member Councillor Berry welcomed that East Lothian had become a haven for artists and appreciated the applicant's desire for a studio but agreed with other local members. This looked like a shop, selling works of art; the retail element was not controllable. If the application had been for a studio only, that would be a different situation. The proposal was not appropriate for this area of Gullane. He did not support the report recommendation. He noted that the hours of operation referred to in Condition 2 were not the same as those stipulated in the body of the report.

Councillor MacKenzie stated that he had been persuaded by the applicant. As she had alluded to, opportunities existed in other outlets across East Lothian to sell works of art. This would be a working studio; its function would be educative and to display works of art, it would not be a shop. He supported the report recommendation

Councillor McMillan welcomed the applicant's commitment to quality craftsmanship but felt however that the retail aspect could become a consequence, even if unintended, and could lead to expansion requirements. On balance he was persuaded by the objectors; this was not a good location for this proposal. He would not be supporting the recommendation.

Councillor Williamson made reference to the small building and space restrictions; the studio would probably only hold 3/4 people at any one time. He would be supporting the recommendation in the report.

Councillor Innes questioned whether the proposal was Class 10 use or Class 1 use. He agreed with Councillor McMillan. Promoting arts in East Lothian was important but this was not the best location for this venture, it was a residential area. He referred to the Local Plan process, stating that there may be a need to look at uses allowed in residential areas. He would not be supporting the report recommendation.

Councillor Grant remarked that he had been impressed by the applicant's presentation; she was trying to advance a new enterprise. He would be supporting the recommendation.

Councillor Caldwell indicated that, on balance, he was inclined to support the report recommendation.

The Convener brought the discussion to a close. He noted the disagreement amongst Members. He stated that East Lothian had been successful in attracting many artists; it could be difficult for them to find suitable locations to display their works of art. This applicant's proposal was for a venue to work and display her artworks. If the Council was serious about supporting artists then this type of proposal should be endorsed. He would be supporting the application.

He moved to the vote on the report recommendation (to grant consent) subject to the correction of Condition 2 regarding the hours of operation as outlined:

For: 7

Against 6:

Abstentions: 0

Decision

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

- 1 The artist studio and gallery hereby approved shall be operated only by the resident of the house of The Coach House and shall not be used as an independent commercial enterprise by any party not resident in that house.

Reason:

In the interests of protecting the residential amenity of the occupants of The Coach House.

- 2 The hours of operation of: (i) the artist studio shall be restricted to 1100 to 1600 hours Tuesday to Sunday (inclusive) and (ii) the gallery use shall be restricted to 1100 to 1600 Thursday to Sunday (inclusive).

Reason:

To restrict the hours of operation of the artist studio and gallery to those applied for.

- 3 The artist studio and gallery use is the only use of Class 10 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 that is hereby approved.

Reason:

In the interests of safeguarding the amenity of the area.

- 4 The existing parking area formed to the southwest of the garage building hereby approved to be put to use as an artist's studio and gallery shall be retained for the provision of off-street parking associated with the approved use unless otherwise approved by the Planning Authority.

Reason:

To ensure an adequate standard of parking provision for the approved use.

5. PLANNING APPLICATION NO. 15/00558/P: ALTERATIONS TO HOUSE, ERECTION OF WALLS, GATE, HANDRAILS, FORMATION OF HARDSTANDING AREAS, STEPS AND PEDESTRIAN ACCESS AT WOODBURN, GARVALD

A report was submitted in relation to Planning Application No. 15/00558/P. Mr Dingwall presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Joan McShane, neighbouring resident, spoke against the application. She informed Members that her main concern was the demolition of part of the boundary wall and formation of a door. This would lead into her garden and would have a major impact on her privacy. She also had concerns about the footpath between the rear garden of the applicant's property which provided rear access to nos. 2 and 4 Kirkbrae.

Councillor Berry, referring to the report, noted that the applicant no longer proposed to form a gate within the north boundary wall. Mr Dingwall confirmed this; revised drawings had been submitted by the agent.

George Cochrane, also a neighbouring resident, spoke against the application. The proposal would result in loss of privacy as the roof windows would look directly into his property. The erection of the fence would spoil the outlook from his patio. He also raised safety concerns regarding the fence. He would experience significant daylight reduction due to the extension of the wall and introduction of planters. He did not object to the proposal as such but rather to its location within the site.

Local Member Provost Broun-Lindsay remarked that the site visit had been useful in highlighting to Members the hinterland and the different garden heights. Having viewed this, he accepted Mr Cochrane's concerns regarding overlooking, but stated this situation had existed previously. He was satisfied that there was no material change to the amount of overlooking; it was accepted, normal use as regards a neighbouring property. He would be supporting the report recommendation.

Local Member Councillor McMillan agreed with his colleague. He referred to discussions at the Community Council regarding this application. He supported the report recommendation.

Local Member Councillor Trotter agreed with his fellow local members and would be supporting the report recommendation.

The Convener moved to the vote on the report recommendation (to grant consent):

For: 13
Against: 0
Abstentions: 0

Decision

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

- 1 A sample of the stone that would be used to infill a small section of the existing wall on the east end of the north boundary of the rear garden of the house hereby approved shall be provided for the inspection and approval of the Planning Authority. The stone used shall accord with that so approved.

Reason:

To safeguard the character and appearance of the Conservation Area.

6a. PLANNING APPLICATION NO. 15/00556/P: ERECTION OF BUILDINGS FOR BIOMASS BOILER SYSTEM WITH ASSOCIATED PIPEWORK AND FLUE (PART RETROSPECTIVE) AT 19 LINKFIELD ROAD, MUSSELBURGH

A report was submitted in relation to Planning Application No. 15/00556/P. Mr Dingwall presented the report, summarising the key points. Clarifying an issue raised at the site visit, he stated that the height of the existing flue was 5.2 metres above ground level, the height of the proposed flue would be 6 metres above ground level. The proposed decision set out in the report was to grant consent.

Councillor Williamson asked, on behalf of Councillor Currie, if a condition could be inserted to restrict delivery times as residents had raised concerns about noise during deliveries. Mr Dingwall indicated this would be possible, informing Members that Road Services had suggested that there should be no fuel deliveries to the application site at the following times where the fuel delivery vehicle would be parked on Linkfield Road:

- a) between the hours of 08:00 and 10:00 and between the hours of 16:00 and 18:00 Monday to Thursday inclusive; and
- b) during Musselburgh Racecourse race meetings.

This was in response to discussions at the site visit and also concerned the classification of Linkfield Road, an important route entering/leaving Musselburgh.

Councillor Berry referred to the colour of the existing and proposed flues and suggested that matt grey would be more appropriate and would provide better camouflage. Mr Dingwall advised that the colour stipulated in the condition could be altered if Members desired.

Shona Davidson, a neighbouring resident, spoke against this application. The applicant had completely disregarded due planning process and had erected this biomass boiler system without approval. It had been in use now for over a year. The noxious fumes impacted on the residential facility, neighbouring properties and gardens and affected the entire area. This new proposal was for two buildings on site. She urged Members to reject this application.

Responding to further questions from Members Mr Dingwall clarified that there would be one chimney. With regard to air quality issues he advised that there was not a requirement to consult SEPA for a proposal of this nature; Environmental Protection had been involved and had no concerns. In relation to the unauthorised erection and operation this was acknowledged. He added that irrespective of the decision taken today the Council would consider taking enforcement action.

Gordon Brown, local resident, spoke against the application. He referred to the assessment carried out by an environmental consultancy company on behalf of the applicant. He stated that emissions were far in excess of European standards. This proposal, situated next to one of their residential care homes, showed the applicant's total disregard for the health of people in this locality. He queried how permission could be given retrospectively and why, in a residential area, the erection and operation of this system for a year, without permission, had been allowed.

Local Member Councillor Caldwell remarked that the current structure was unsightly and it was unfortunate that this application had taken so long to come forward. He welcomed the proposed traffic restrictions. He agreed with Councillor Berry that the colour of the existing and proposed flues should be altered as suggested to provide better camouflage.

Local Member Councillor Williamson indicated that the addition of a condition restricting deliveries as outlined was welcomed.

Councillor Day appreciated the concerns expressed by the objectors but felt that this substitute proposal was an improvement. He also agreed that matt grey would be a better colour for the existing and proposed flues. He supported the report recommendation.

Councillor Grant echoed those comments. He would support the application; the necessary safeguards were in place.

The Convener appreciated that residents were disappointed with the way the applicant had dealt with matters. The necessary controls were however in place. He noted the points put forward regarding delivery restrictions and flue colour.

The Convener moved to the vote on the report recommendation (to grant consent) subject to the proposed variations to conditions concerning fuel deliveries and flue colour:

For: 13
Against: 0
Abstentions: 0

Decision

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

- 1 Within two months from the date of this planning permission the exposed 1.2 metres length of stainless steel flue attached to the east end of the front (north) elevation of the building hereby approved shall have a grey coloured matt finish. A sample of the grey coloured matt finish shall be provided for the inspection and approval of the Planning Authority. The grey coloured matt finish used shall accord with that so approved.

Reason:

To better integrate the flue into its surroundings in the interests of safeguarding the setting of the listed building and the character and appearance of the Conservation Area.

- 2 Within three months from the date of this planning permission the existing large unauthorised biomass boiler building and its associated flue, in its position some 4 metres away from the building line of the rear elevation of the applicant's property, shall be removed from its rear garden setting.

Reason:

To secure the removal of the unauthorised biomass boiler system building and its associated flue.

- 3 There shall be no fuel deliveries to the application site at the following times where the fuel delivery vehicle is parked on Linkfield Road:
 - a) between the hours of 08:00 and 10:00 and between the hours of 16:00 and 18:00 Monday to Thursday inclusive; and
 - b) during Musselburgh Racecourse race meetings.

Reason:
In the interests of road safety.

- 4 No use shall be made of the biomass boiler system hereby approved unless and until the flue, also hereby approved, has been installed and has been finished externally in a matt grey colour. A sample of the grey coloured matt finish shall be provided for the inspection and approval of the Planning Authority. The grey coloured matt finish used shall accord with that so approved.

Reason:
To safeguard the amenity of the area.

6b. PLANNING APPLICATION NO. 15/00556/LBC: ERECTION OF BUILDINGS FOR BIOMASS BOILER SYSTEM WITH ASSOCIATED PIPEWORK AND FLUE (PART RETROSPECTIVE) AT 19 LINKFIELD ROAD, MUSSELBURGH

A report was submitted in relation to Planning Application No. 15/00556/LBC. The proposed decision set out in the report was to grant consent.

The Convener moved to the vote on the report recommendation (to grant consent) subject to alteration of Condition 2 regarding the coloured finish of the flue from black to grey:

For: 13
Against: 0
Abstentions: 0

Decision

The Committee agreed to grant listed building consent subject to the following conditions:

- 1 The works to implement this listed building consent shall begin before the expiration of 3 years from the date of this grant of listed building consent.

Reason:
Pursuant to Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

- 2 Within two months of the grant of listed building consent, the exposed 1.2 metres length of stainless steel flue attached to the east end of the front (north) elevation of the building hereby approved shall have a grey coloured matt finish. A sample of the grey coloured matt finish shall be provided for the inspection and approval of the Planning Authority. The grey coloured matt finish used shall accord with that so approved.

Reason:
To safeguard the special architectural or historic interest of the listed building.

Sederunt – Councillors MacKenzie and Grant left the Chamber

7. PLANNING APPLICATION NO. 15/00421/P: ALTERATIONS AND CHANGE OF USE OF SHOP (CLASS 1) USE TO HOT FOOD TAKEAWAY (RETROSPECTIVE) AT 81 HIGH STREET, HADDINGTON

A report was submitted in relation to Planning Application No. 15/00421/P. Mr Irving presented the report. The proposed decision set out in the report was to grant consent.

John Todd, representing Sheila Todd, a resident of the building, spoke against the application. His mother was strongly opposed to the continued operation of this business in its current form. The use as a takeaway had significantly impacted on her wellbeing. He raised a number of issues; noise, cooking smells and litter. There were other concerns including deliveries using the communal door, use of residential waste bins and people congregating on the outside steps. The cooking smells were particularly bad and any suggestions regarding ventilation had been ignored by the applicant. This was a bad neighbour application that should not be approved retrospectively.

David Barrett, representing Ann Kinloch, also a resident of the building, spoke against the application. It was totally inappropriate to have a retrospective application for this, one of the worst developments in a Conservation Area. The impact of this had deeply affected Ms Kinloch. He outlined his involvement in the original 2009 application, providing details of the original concept, which had not been implemented. This was a bad neighbour development; retrospective approval should not be granted.

Local Member Councillor McMillan referred to the number of adverse comments received from constituents regarding this business. He made reference to the original application for use as a restaurant and takeaway, noting that this use had been completely disregarded. He gave details of the number of restaurants and takeaways in the town centre. He drew attention to Policies ENV2 and R3. Paragraph b of Policy R3 stated that the provision of a hot food takeaway should only be permitted if it met all the criteria of that policy – i.e. the proposal would not cause harm to the local amenity and the cumulative effect of additional premises in locations already containing one or more hot food takeaways in close proximity would not be harmful to the town centre amenity. Residents had complained about deliveries, cooking smells and many other issues. There was enough evidence to question the original decision and to not support this retrospective application for use solely as a takeaway.

Local Member Councillor Trotter also referred to the numerous problems encountered by residents. He agreed with his colleague; he would not be supporting this application.

Local Member Provost Broun-Lindsay agreed; he would not be supporting this application for the reasons outlined by Councillor McMillan.

Councillor Goodfellow also made reference to the original application. He did not support this retrospective application.

The Convener moved to the vote on the report recommendation (to grant consent):

For: 0
Against: 11
Abstentions: 0

Decision

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

1. Due to the location of the premises in Haddington town centre and of the existing number of hot food takeaways, the additional hot food takeaway results in a cumulative effect of hot food takeaway use harmful to town centre amenity.

The Committee also requested that the necessary enforcement action be taken.

DRAFT

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee
MEETING DATE: Tuesday 3 November 2015
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

2

Application No. **15/00670/PPM**

Proposal Planning permission in principle for mixed use development comprising residential development and Class 4 business units, formation of vehicular and pedestrian accesses with associated infrastructure, engineering and landscaping works

Location **Tantallon Road
North Berwick
East Lothian**

Applicant T G Tait & Sons

Per Geddes Consulting

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

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

As a statutory requirement of major development type proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 14/00023/PAN) and thus of community consultation prior to this application for planning permission in principle being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that 28 people attended the pre-application public exhibition, which was held at the North Berwick Community Centre on 28th January 2015, and that 6 feedback forms were completed. The attendees of the pre-application public exhibition raised a number of issues regarding the proposals. The development for which planning

permission in principle is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

This application relates to some 10.2 hectares of agricultural land located immediately to the southeast of North Berwick. It has an L shaped footprint and forms the northern part of a larger field.

The western part of the site is bounded to the north by an area of mixed uses which include the Tantallon Road Industrial Estate, a Tesco supermarket and petrol filling station, a First Bus depot and a cemetery. The eastern part of the site is bounded to the north by a length of Tantallon Road (the A198 classified road), and beyond by the residential properties of Rhodes Park. To the south and east it is bounded by agricultural land and, at the southwest end of its southern boundary, by the house and garden of Sea Breezes and the private access road to that property. To the west it is bounded by the public road of Heugh Road/Heugh Brae with agricultural land beyond. The agricultural land to the west of Heugh Road/Heugh Brae forms part of the North Berwick Law Site of Special Scientific Interest (SSSI).

Planning permission in principle is sought for a mixed use development of the application site to include some 125 homes, business units for use within Class 4 (business/light industry) of the Town and Country Planning (Use Classes) (Scotland) Order 1997, a Sustainable Urban Drainage System (SUDS), open space including allotments and toddlers play area, and for associated infrastructure.

An 'Indicative Development Framework' plan has been submitted with the application indicating how these mixed uses could be accommodated on the application site. It is indicated that residential development could take place over the majority of the site with areas of public open space and a toddlers play area located within those residential areas. It is indicated that a SUDS basin could be accommodated on the northeastern part of the site, with landscaped areas around it and further landscaped areas, including an informal tree avenue, could be accommodated along the eastern boundary of the site. The southern part of the site and much of the western end of the site could be laid out as a green space meadow with scattered native planting and an informal rural whin dust footpath. It is indicated how an area of Class 4 business uses could be accommodated on the northern part of the site adjacent to the Tesco supermarket site and a further area of Class 4 business uses could be accommodated in the north-western part of the site adjacent to Heugh Road/Heugh Brae. A site for allotments is indicated between residential development and the north-west area of business uses.

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

The 'Indicative Development Framework' proposes that access to the residential areas, and the business use area on the northern part of the site, be taken from Tantallon Road with separate accesses for the residential and business uses into the northernmost part of the site. Vehicular access to the proposed business units on the north-west of the site is indicated as being through from the Tantallon Industrial Estate to the north of that part of the site.

The application is supported by, amongst other things, a Pre-application Consultation Report, a Planning Statement, a Landscape and Visual Impact Assessment, an Assessment of the Housing Land Supply, a Design Statement, a Statement of Site Effectiveness, a Sustainability Statement, a Transport Assessment, a Noise Impact Assessment, a Flood Risk Assessment and Drainage Strategy Report, an Ecological

Assessment, an Education Impact Assessment and an Archaeological Desk Based Assessment.

The planning statement submitted with this application provides background details on the proposals and sets out the key reasons why the applicant considers that planning permission in principle should be granted. It declares that there is a clear shortfall in the 5-year housing land supply in East Lothian and that this proposal would deliver much needed housing, including affordable housing, in the short term. It also declares that the proposed delivery of Class 4 business units to meet local needs supports sustainable economic growth and is supported by the Council's Economic Development Strategy 2012-22.

The application site has also been considered as part of the local development plan process following a call for sites by the Council as part of the research towards the new Local Development Plan. The Council's Main Issues Report (MIR) is a consultation document which considers such submissions and other sites. The MIR proposes the application site as a preferred site for residential (circa 100 homes) and employment uses. The MIR is a material consideration; however, as a consultation document it can be accorded only limited weight at this stage.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 15th January 2014 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that a mixed use development of the scale proposed is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission in principle. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed mixed use development to be the subject of an EIA.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policies 2 (Supply and Location of Employment Land), 5 (Housing Land) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP1 (Landscape and Streetscape Character), DP17 (Art Works-Percent for Art), DP20 (Pedestrians and Cyclists), ENV7 (Scheduled Monuments and Archaeological Sites), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Also material to the determination of the application is Scottish Planning Policy: June 2014.

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

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

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

Paragraph 34 states that where a plan is under review, it may be appropriate in some circumstances to consider whether granting planning permission would prejudice the emerging plan. Such circumstances are only likely to apply where the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan. Prematurity will be more relevant as a consideration the closer the plan is to adoption or approval.

Paragraph 110 of SPP states that the planning system should identify a generous supply of land for each housing market area within the plan area to support the achievement of the housing land requirement across all tenures, maintaining at least a 5 year supply of effective housing land at all times.

At its Cabinet meeting of 10th December 2013, the Council agreed that East Lothian has a shortfall in its effective housing land supply. At that meeting the Council also approved Interim Planning Guidance against which planning applications for housing on land not allocated for housing development will be assessed. A revised version of the 'Housing Land Supply: Interim Planning Guidance' was approved by the Council on 16th December 2014.

The application site is not allocated for residential development. Therefore the approved Interim Planning Guidance is a material consideration in the determination of this planning application.

A total of 18 written representations have been received in respect of this application, of which 17 make objection to the principle of the proposed development. The other representor does not state whether they object to or support the proposed development but queries the accurateness of the visual impact assessment submitted by the applicant.

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

The main grounds of objection are summarised as follows:

- * Existing infrastructure and facilities, including the Law Primary and High School, nursery, doctors, dentists, sports facilities and clubs, sewage treatment works, trains and roads cannot accommodate this along with other recently approved housing developments;
- * The location of the proposed development site on the outskirts of the town means that residents would rely on cars to travel to the town centre, schools, train station etc. leading to increased traffic flows in the area, issues of road safety and increased congestion along the High Street and surrounding streets and issues of parking in the town centre, shore front and around the school, nursery, community centre and train station;
- * The continuous expansion of the town is changing the character of the town and affecting the community feeling of the area;
- * North Berwick needs low cost or social or apartment housing for families who cannot afford the local house prices not more expensive new housing;
- * North Berwick doesn't need industrial units;
- * The development of the site would lead to a loss of prime agricultural land;
- * The proposed development will impact harmfully on tourism by having a detrimental impact on North Berwick Law and because tourists will not want to come to a traffic logged, built up town;
- * Advertising for the public exhibition was not excessive enough;
- * There are many less sensitive places to develop than this;
- * The proposed development would have a harmful impact on neighbouring residential properties in terms of noise, disturbance and loss of privacy;
- * The development, and light pollution from it, will damage the landscape and view to The Law;
- * Not in accordance with East Lothian's housing plan which is due to focus development on an A1 corridor;

One of the objections is from Law Primary Parent Council who object on the grounds of lack of capacity at the school and nursery to accommodate children from the proposed new homes; road safety, traffic congestion and parking concerns around the increased traffic the development would generate; unmanageable pressure on local facilities and services, including GP and other community health services, and local Council sports facilities.

North Berwick Community Council recommend refusal of the application. They advise that they had the opportunity of early preparatory discussions with the applicant and at that stage considered that the proposal would have merit as an alternative to the possible Ferrygate site, given various adjustments. However, since then the principle of a residential development of land at Ferrygate Farm, North Berwick (planning application 14/00632/PPM) has been accepted by the Scottish Government's Directorate for Planning and Environmental Appeals subject to conditions and the prior conclusion of a

planning obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997. The Community Council therefore advise that the Ferrygate decision has had an adverse impact on their considerations of this current application for Tantallon Road, as they now consider that because of the amount of new housing development that has been approved recently in North Berwick this proposed development at Tantallon Road is no longer required or desired. The Community Council list the reasons they consider the application should be refused which include:

- * It would lead to a further increase in the overdevelopment of the town;
- * No relevance to the recommendations of the MIR central growth corridor plan;
- * Not included in the present infrastructure;
- * Road safety, congestion and parking concerns;
- * Would limit and spoil the tourist approach to the Law;
- * Additional pressure on schools;

The impact of the proposal on capacity of Doctors surgeries is a matter for the NHS and not a material consideration in the determination of this planning application. The advertisement of the public meeting relating to the Proposal of Application Notice was carried out in accordance with statutory requirements.

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

The adopted Local Plan does not allocate the land of the application site for residential or business development. Whilst the MIR proposes the site for mixed residential and business use, as a consultation document only limited weight can be accorded to this consideration.

The approved South East Scotland Strategic Development Plan (SESplan) identifies a growth corridor for strategic development along the A1/East Coast Main Line corridor whilst also allowing for development of appropriate sites of more limited scale outside of that corridor. The MIR proposes a 'Compact Growth' development strategy with strategic development concentrated in the west of East Lothian whilst acknowledging that there is a requirement for a wide range of development sites to meet housing need and demand throughout East Lothian.

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

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

Local Plan Policy DC1 (Development in the Countryside and Undeveloped Coast) provides the detailed context for the consideration of development proposals in East Lothian's countryside and coast. It requires that loss of prime agricultural land be minimised. In respect of this, the release of Greenfield land for development will often result in loss of prime agricultural land. The proposed density of development, taken in conjunction with the provision of green space for the development and the area, is such that it can be considered that the loss of prime agricultural land would be minimised.

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

However, the approved South East Scotland Strategic Development Plan (SESplan) and its Supplementary Guidance on housing targets requires that Policy DC1 be considered in the context of the current housing land supply.

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

- (a) The development will be in keeping with the character of the settlement and the local area;
- (b) The development will not undermine green belt objectives; and
- (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

East Lothian Council has agreed that East Lothian has a shortfall in its effective housing land supply. In respect of this the Council approved its Housing Land Supply: Interim Planning Guidance against which planning applications for housing on land not allocated for that purpose will be assessed. Whilst Scottish Government Reporters have accorded differing weight to this guidance in different appeal decisions, its criteria remain fundamental material planning considerations.

The approved Interim Planning Guidance states that the weight the Council affords its terms, and the terms of other Development Plan policies, to individual planning applications will depend on the extent to which the proposed development is able to satisfy the following criteria:

- 1 Effectiveness;
- 2 Scale;
- 3 Timing;
- 4 Development Plan Strategy; and
- 5 Locational Considerations.

In respect of criteria 1; effectiveness, the applicants' agent has confirmed that there are no physical constraints to the development of the site. The site is in a single ownership and is available for development. The agent advises that interest has been expressed by a number of national house builders in developing this site. The agent considers that the proposed private homes will be developed over a 4 year period with sales at 24 homes per annum, together with the building of 31 affordable homes as agreed by the Council. Construction is anticipated to commence in July 2017. In these respects the site

can be considered to be physically and financially capable of being effective and capable of making an early contribution to the housing land supply.

In respect of criteria 2; scale, the proposed housing development of 125 residential units would be below the Guidance threshold of 200 units. The guidance states that the actual number of houses permissible on any one site or within any one settlement will be assessed against the scale and character of the specific settlement. Other than in the main towns, the maximum permissible will therefore be significantly less than the maximum capacity of 200 units. North Berwick is one of the main towns within East Lothian. Whilst this scale of growth would be significant, it would nevertheless be appropriate to the scale and character of the town. In this respect it does not conflict with criteria 2 of the Interim Guidance. In this and in that the proposals would not undermine green belt objectives and if the assessment is that the infrastructure requirements are either committed or would be met by the developer, including for education provision, the proposals comply with Policy 7 of SESplan.

In respect of criteria 3; timing, the applicant's agent has indicated that development could commence during 2017 and all 125 houses could be completed within a 4 year period. There is no evidence to suggest that they would not be able to develop the site within this suggested timescale.

In respect of criteria 4; development plan strategy, it is considered that the proposed housing would not prejudice the delivery of the existing Development Plan strategy. It would not compromise the ability to provide infrastructure to existing housing land allocations that do not yet have planning permission, or are committed but have not yet started. Nor would it be dependent on the prior provision of infrastructure required by existing housing land allocations that do not yet have planning permission or are committed but have not yet started. Further, though this can only be given limited weight, it is a preferred site in the MIR.

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

As North Berwick lies outwith the East Lothian Strategic Development Area the proposed development also has to be assessed against the tests as set out in parts (i) and (ii) of criteria 5.

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

(a) the site is not within the Edinburgh Green Belt; and

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

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

(d) the site's development for housing is consistent with all other relevant development plan policies.

In regard to this the proposed development meets proviso 5(i) (a) and (b) in that the site is not within the Edinburgh Green Belt and the scale of the proposed development is in keeping with the scale and character of the existing town of North Berwick. Moreover, the proposed development meets proviso 5(i) (c) in that there is no evidence to suggest that infrastructure is not available or could not be made available within a timescale that allows for early house completions. In respect of 5(i)(d) if the assessment is that the proposal does not conflict with other relevant development plan policies then it passes this test of the Interim Planning Guidance.

Therefore on this consideration the housing development of the application site is consistent with the Council's Housing Land Supply: Interim Planning Guidance subject to compliance with other development plan policies.

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

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

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

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

In terms of part 5(ii) (a), as some of the objectors have informed, the car park at North Berwick train station often nears its capacity. The lack of capacity could become more significant once the housing sites at Mains Farm, Gilsland and Ferrygate have been developed and are occupied. Objectors also inform that capacity on the trains can be an issue. Notwithstanding this, there are east and west bound bus stops on Tantallon Road, in close proximity to the application site. A regular bus service operates from these bus stops to Dunbar and to Edinburgh. On this matter, the site is relatively well served by public transport.

In terms of part 5(ii) (b) North Berwick has a wide range of services and facilities, all of which are available and accessible from the application site such that the need to travel is minimised. Therefore the proposals do not conflict with this consideration.

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

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

Part (v) of criteria 5 states that a proposed housing use must be contained within robust, defensible boundaries and must not set a precedent for subsequent future expansion, the principle of which would be more appropriately considered through a development plan review. This can include that there be clear, natural boundaries which can be strengthened by the proposal where appropriate.

The application site is bounded to the north and west by roads and by the area of mixed uses which include the Tantallon Road Industrial Estate, a Tesco supermarket and petrol filling station, a First Bus depot and a cemetery. It is partially bounded to the south by the house and garden of Sea Breezes and the private access road to that property.

These are robust and defensible boundaries which serve to contain the proposed development along those boundaries. The eastern boundary of the application site is enclosed by a post and wire fence and a hedgerow. The majority of the southern boundary of the site is not currently enclosed.

The Indicative Development Framework submitted with the application indicates that the southern boundary of the site would be enclosed with a post and wire fence along its entire length and that a proposed green space meadow with scattered native planting allowing filtered views between the development and the countryside would be provided to the north of the boundary fence. The eastern boundary would be further landscaped with an informal tree avenue again allowing filtered views between the development and the countryside.

The Council's Landscape Projects Officer agrees with the applicant's landscape assessment in that the rising landform to the south provides a visual backdrop to the site when viewed from the north, for which the proposed greenspace meadow and scattered tree planting will provide a setting to the proposal whilst also providing an element of interaction with the wider landscape. She advises that this boundary treatment would provide a suitable edge between the settlement and the wider countryside. Whilst recommending the inclusion of a mixed native species hedgerow along the proposed post and wire boundary fence, she supports the proposal.

Whilst the boundary treatment would be relatively simple, in this location where development would be seen against the landscape backdrop of the further rise of the land, it is a treatment appropriate to this particular landscape form. If significant planting were carried out this would over time obscure the landform which provides the landscape character of this part of the setting of North Berwick and of the site. That approach would therefore be inappropriate in this location. As such what is proposed, with development limited to the landscape capacity of the site, would in this case be an appropriately robust and defensible boundary at the south and east of the site. Subject to such boundary and landscaping features being provided, matters which can be dealt with by conditions imposed on a grant of planning permission in principle, the principle of a housing development of the application site is consistent with this consideration of the Council's Housing Land Supply: Interim Planning Guidance.

In terms of the proposed business uses this has to be taken into consideration of the context of the wider proposals for a residential development of the site. Notwithstanding this, Policy DC1 supports business use in the countryside where it will be of an appropriate scale and character for its proposed location in the countryside, it can be suitably serviced and accessed and there are no significant traffic or other environmental impacts.

The Council's Team Leader, Business Development advises that the proposals as indicated would provide some 1115 square metres of business floorspace. Using industry standard calculations of 47 sqm per full time equivalent (FTE) for light industry and 12 sqm per FTE for office, the proposed 1,115 sqm of industrial/business space would provide (calculated on a 70/30 split between industry and office, dependent on uptake), 41 FTEs. This number would increase if a higher percentage of space was taken up by office which is a possibility in the town of North Berwick where there is a high propensity of home based office working. He further advises that the annual business based survey undertaken by Economic Development identified North Berwick as the 3rd preferred location for office / business use in the county. Thus based on the strategic aims, objectives and targets of the Economic Development Strategy 2012 -22 Economic Development and Strategic Investments, he is fully supportive of the application. Thus there is a justified need for the proposed business use which would support the Council's

economic development objectives.

Thus the principle of this part of the proposals would, in terms of Policy DC1, be dependent on the acceptability of the scale and detailed design of its built form and integration with the landscape character of this part of North Berwick and the surrounding countryside. This part of the site is adjacent to the existing industrial and related uses to the north of the site. The Class 4 business use as proposed is by definition in the Use Classes Order a use required to be compatible with residential development in its environmental impacts. Therefore the use is appropriate subject to its detailed design, including that in its scale and building heights it be related to the heights of adjacent business units. These matters and other design principles of this part of the development could be controlled by conditions of any grant of planning permission in principle.

The applicant has had general discussions with the Council's Team Leader, Business Development and the Estates team in relation to working jointly with the Council to develop the proposed Class 4 business uses on the site. There is no agreement at this stage as to how such joint working would be constituted and further discussions are required to give shape to how such an arrangement may work. However, it should be made a condition of any grant of planning permission in principle that the business units be delivered alongside the housing development of the other parts of the site. This can be reasonably secured through a requirement for a delivery plan for the Class 4 units. Subject to this the proposal would contribute to the aims, objectives and targets of the Council's Economic Development Strategy 2012 -22.

If planning permission in principle were to be granted, the details of the siting, design and external appearance of the proposed houses and business units, the allotments, the landscaping of the site and the means of access to the proposed development would require the subsequent approval of the Planning Authority. Through the subsequent determination of such details in relation to Scottish Government Policy of Designing Streets and the Council's Urban Design Standards for New Housing Areas, planning control would be exercised to ensure that the built form of the development would be fully acceptable, with due regard to the need to safeguard the character and appearance of this site on the southeastern edge of North Berwick.

In respect of the indicative layout and density as proposed, the Council's Principal Amenity Officer is satisfied in principle with the quantity of open space that is proposed. He advises it is likely that formal toddler play provision will be required subject to safe and appropriate access. This could be secured by a condition imposed on a grant of planning permission in principle.

His further recommendation is that a developer contribution, to increase capacity at Recreation Park, would be the most effective way to deliver older children's play for the development. The applicant agrees to the principle of this contribution. Whilst no amount of contribution has at this stage been agreed, this can be subject to negotiation between the applicant and the Principal Amenity Officer.

The above approach would also increase integration between the householders and the existing community. It would require a suitable safe route to existing play provision at Recreation Park be identified, in parallel with identifying a safe route to school, which should be resolved in conjunction with the Council's Roads Services.

The Principal Amenity Officer is also supportive of the proposed allotments. The applicant has agreed in writing that the title of the land for the allotments be granted to the Council.

On these considerations of open space and recreation provision, the principle of the proposed housing development is consistent with Policies C1 and C2 of the adopted East Lothian Local Plan 2008.

The Council's Archaeology Officer advises that the general area of the proposed development contains known archaeological remains. As there is no recorded disturbance of the site there is the potential for remains to be impacted upon by the proposals. Because of this the Archaeology Officer recommends that a programme of archaeological works (Field Walking Survey and Evaluation) be carried out prior to the commencement of development. This can be secured through a condition attached to a grant of planning permission in principle for the proposed development. This approach is consistent with Scottish Planning Policy: June 2014 and Planning Advice Note 2/2011: Planning and Archaeology.

The Archaeology Officer further recommends that a Heritage assessment of the potential impacts upon the Scheduled Monument of North Berwick Law should be carried out as part of the master planning for any future full planning application. This should follow the guidelines and methodologies outlined in Managing Change in the Historic Environment – Setting Historic Scotland 2010. Again this can be secured by a condition of any grant of planning permission in principle.

Historic Scotland have been consulted on the application and are content that the proposed development would not have an adverse impact on the setting of the 'North Berwick Law, fort, hut circles and enclosures' Scheduled Monument.

On this consideration the proposed development complies with Policy ENV7 of the adopted East Lothian Local Plan 2008, the Scottish Historic Environment Policy: December 2011 and Scottish Planning Policy: June 2014.

The Council's Roads Services raise concerns that traffic likely to be generated by the proposed development could lead to extra pressure on traffic flows at Dolphingstone, Salters Road and Bankton interchanges on the A1. However at this time Roads Services analysis and modelling of traffic impacts in the wider area awaits completion and no further information is available at this time to inform an assessment of such impacts.

Road Services has considered the Transport Assessment submitted with the application and advise that any grant of planning permission in principle be subject to conditions on the following matters:

- 1) To enable safer access to the local schools, a signal controlled pedestrian crossing is required over Dunbar Road (A198) this should be provided in between Glenburn Road and Heugh Road. Details shall be submitted for approval.
- 2) Vehicle tracking has been shown on the indicative layout however for the detailed layouts (for both the housing and business areas) a detailed vehicle tracking (swept path) shall be provided using the large design rigid vehicle for the whole site. For the avoidance of doubt the Design Vehicle to be used is the "Large Rigid Vehicle" as outlined in the Freight Transport Association's document "Designing for Deliveries" - this will permit access by the occasional refuse/recycle collection vehicle, deliveries, social care buses and emergency & fire fighting appliances. From the text outlined in the document the vehicle is 2.5m wide and has a 6.1m wheelbase within an overall vehicle length of 10m. In addition the business areas should provide vehicle tracking for the above vehicle and the design articulated vehicle.
- 3) The existing footway along the site frontage shall be replaced and include dropped kerb crossings over A198 to allow barrier free access to existing bus stops.
- 4) A pedestrian route through the business land to the west is required to allow

connection to Heugh Road for the new housing to the east – NB this is unlikely to be regarded as a route to school as this is through an industrial/ business area and the gradients are likely to be too steep to allow barrier free access.

5) The pedestrian route to the supermarket is required through the supermarket's western boundary – this must include pedestrian provision within the existing supermarket car park to enable direct access for pedestrians from the new housing areas.

6) Access to the small business area accessed directly from the A198 shall be taken via a priority junction with corner radii of 10.5 metres on either side of the junction. Visibility splays of 4.5 metres by 70 metres must be provided and maintained at this access so that no obstruction lies within the splay above a height of 1.05 metres, measured from the adjacent carriageway surface.

7) Access to the housing areas directly from the A198 shall be taken via a priority junction with corner radii of 10.5 metres on either side of the junction. Visibility splays of 4.5 metres by 90 metres must be provided and maintained at this access so that no obstruction lies within the splay above a height of 1.05 metres, measured from the adjacent carriageway surface.

8) The principle of forming an access to the larger western business area from the existing industrial estate to the north is acceptable however details of how this could be achieved need to be shown and agreed.

9) All access roads shall conform to ELC Standards for Development Roads in relation to roads layout and construction, footways & footpaths, parking layout and number, street lighting and traffic calming measures. This shall also comply with our Design Standards for New Housing Areas. NB the minimal level of treatment on home zone roads for streets with a single access.

10) Parking for both the residential elements and business areas of the development shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads – Part 5 Parking Standards. At this time house sizes on individual plots have not been identified and therefore layouts may be subject to adjustment in respect of parking numbers at the detailed application stage.

11) Vehicle access to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles.

12) Driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface.

13) Within residential 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.

14) 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. The cycle parking for the business areas/units shall also meet with ELC Standards for Development Roads – Part 5 Parking Standards.

15) Wheel washing facilities must be provided and maintained in working order during the period of construction of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

16) A Construction Method Statement to minimise the impact of construction activity on the safety and 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 work. Routes for construction traffic shall

also be included.

17) A Green Travel Plan to minimise private car trips and to encourage use of alternative modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority prior to the housing being occupied and /or the business units coming into operation.

In respect of the proposed access to the business use on the northwestern part of the site, Roads Services advise that the principle of access via the existing industrial and related uses to the north of this part of the site is acceptable, subject to the detail of it. The Council's Principal Amenity Officer advises that the access as indicated on the application plans would not be possible in the location shown as it cuts through the operational yard space currently occupied by the local Amenity Services team.

The applicant has clarified that the access is shown indicatively through this part of the boundary but that it could be taken from any practical or achievable point from along that northern boundary of that part of the site. In practical terms there are several options available for such an access to be achieved. Whilst this would require a right of access from landowners to the north of the site, including the Council, that is a private legal matter amongst the relevant parties and is not material to the determination of the application. Rather, that rests on the technical acceptability of such an access arrangement and to this Roads Services do not object. As there is more than one option to achieve such an access, it should be expected that this can be achieved with the appropriate level of negotiation.

Additionally, although the applicant has not proposed or at this stage demonstrated a technical solution to taking access off of Heugh Road/Heugh Brae to provide for this part of the site, that possibility remains and any grant of planning permission in principle should not preclude the potential for access to be taken to that part of the site in this way.

With the use of conditions to secure the recommendations of Roads Services, the principles of the proposed development of the site for residential and business use comply with Policies DP20, T1 and T2 of the adopted East Lothian Local Plan 2008.

The Council's Service Manager, Waste advises that he is content with the swept path analysis of the indicative layout of the development. Further assessment in relation to his service would be required of any detailed design of development were planning permission in principle to be granted.

Further to the landscape considerations of the south and east boundaries as set out above, the Council's Landscape Projects Officer advises that pre-application discussions were held with the applicant's agent where the importance of retaining views to North Berwick Law from the approach to North Berwick to the east and the setting of the development in the landscape were discussed. She considers that the applicant has taken on board these discussions. A key point is that the views of North Berwick Law from the east are an important aspect of the eastern entrance to North Berwick and should be maintained. Accordingly, the proposal incorporates open space and landscaping at the Tantallon Road frontage which will provide some screening of the existing supermarket whilst maintaining the views across the site to North Berwick Law. She does advise that an improvement would be to have buildings directly adjacent to Tantallon Road as single storey to reduce their scale and competition with North Berwick Law, which should be the feature of this view.

She supports the proposal that the houses along the eastern boundary closest to Tantallon Road are orientated to face out of the site, separated from the road by open space and tree planting. She recommends that garden boundaries at this important

entrance, where visible, should be feature stone walls and/or hedging and not fencing.

The Landscape Projects Officer does not support the fencing off of the SUDS area as proposed within the open space to the frontage with Tantallon Road. She advises that fencing around the SUDS basin would detract from the importance of this entrance and the setting of the development. The plans denote a SUDS basin that is stated will be planted to provide both amenity and biodiversity value. Detention basins are normally dry and in certain situations the land may also function as a recreational facility, which would be supported here. However, basins can also be mixed, including both a permanently wet area for wildlife or treatment of the runoff and an area that is usually dry to cater for flood attenuation. She recommends that if the location is to be maintained this should be of a type that would not require fencing and could be maintained as a managed recreational area suitable for this entrance location.

In respect of the northern boundary with the Tesco site the Landscape Projects Officer advises that this is an important boundary that appears to have been given little consideration. She supports the proposed housing layout which indicates a mix of rear elevations and gables visible from the north to help break up the massing of the built form. However where rear gardens are proposed to face onto the north site boundary, she recommends a planting buffer of hedge and shrub planting as well as trees be provided to their north to reduce the negative impact of seeing close boarded fencing along this entire length.

The proposal plan also includes an indicative location of an acoustic fence (2 metres high) along the northern site boundary with the Tesco site, returning at the east end. The applicant's noise impact assessment notes that whilst this assessment demonstrates that the noise impacts in relation to residential amenity can be mitigated, the solution considered here represents only one option for control. The Landscape Projects Officer has concerns over the impact of a 2m high acoustic barrier along this boundary both for the residents of the site and in the surrounding viewpoints. However, she advises that detailed consideration of the design and location of acoustic mitigation measures together with the addition of shrub, hedge and tree planting along this north boundary can mitigate these concerns.

The Landscape Projects Officer supports the additional tree planting indicated in the southwest corner of the site and proposed shrub planting to the south side of the business units to the west of the site and around the western and southern boundaries of the housing to the western and southern edges to reduce the visual impact of these from the west and south. She recommends that the detailed design should include for tree planting on the streets of the development, including large species trees within open spaces to create feature trees to break up the built form in time and link with surrounding trees. She further recommends that detailed design of streets and their incorporation of swales and trees should ensure that an attractive street layout is achieved.

These landscape recommendations could be made conditions of a grant of planning permission in principle, subject to which the proposals comply with Policy DP14 of the adopted East Lothian Local Plan 2008.

The Council's Biodiversity Officer raises no objection to the proposal. He advises that as an open arable field there are opportunities for biodiversity improvement and recommends native species planting to facilitate this.

The Council's Access Officer advises that he is pleased to see the proposed paths around the southern boundary of this site, but that there needs to be a better access for recreational access outwith the site ideally with an access west to North Berwick Law. He

raises concerns in relation to indicative access to surrounding roads and the extent to which the proposal has sufficient access to discourage car use in relation to both town centre and countryside access, though he does not make specific recommendations in respect of this matter. In this respect it can be made a condition of any grant of planning permission in principle that a detailed design address the need for better pedestrian (and cycle) access.

The Council's Principal Environmental Protection Officer advises that he agrees with the findings of the applicant's noise assessment report and therefore recommends that to mitigate against any impact on residential amenity from noise associated with the normal operation of the existing Tesco store, acoustic measures be provided along the northern boundary of the site as indicatively proposed and that the exact detail and location of an acoustic barrier can be dealt as a condition of any grant of planning permission in principle.

Subject to this the proposed development would not harm the amenity of any existing nearby or proposed residential properties, consistent with Policies DC1 and ENV1 of the adopted East Lothian Local Plan 2008.

The Scottish Environment Protection Agency (SEPA) raises no objection to the principle of the proposed development on the grounds of potential flood risk, though does advise on the Council's need to undertake its responsibilities as the Flood Prevention Authority. In respect of this the Council's Manager - Structures, Flooding and Street Lighting advises that the surface water drainage system including attenuation is to be designed to accommodate a 1 in 200 year flood return period, as required by SPP.

He further advises that further information is required in respect of detailed matters, including:

- Results of any investigation of the receiving watercourse and culvert upstream of Tantallon Road as per the recommendations provided in SEPA's consultation response;
- Amended details of the proposed SUDS system including adoption and maintenance Arrangements; and
- Details of flow paths with regards to exceedance flood events

These matters can be required as a condition of any grant of planning permission in principle.

In respect of SUDS provision SEPA advises it is satisfied that the applicant is providing the required level of treatment for a development of this size and that there is sufficient space within the development to accommodate the SUDS system onsite.

In respect of foul drainage Scottish Water have made no response to consultation on the proposals. SEPA advise on this matter that they have no objection to the proposals subject to a suspensive condition requiring details of foul drainage, which can be applied to any grant of planning permission in principle.

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

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

He advises that Law Primary School and North Berwick High School do not have sufficient capacity to accommodate children that could arise from the proposed development. Thus he objects to the application on the grounds of lack of permanent capacity at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of £781,750 towards the provision of additional school accommodation at Law Primary School and £520,000 towards additional school accommodation at North Berwick High School.

The required payment of a financial contribution of a total of £1,301,750 towards the provision of additional accommodation at Law Primary School and North Berwick High School can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding necessary school capacity.

In accordance with Policy H4 of the adopted East Lothian Local Plan 2008 a grant of planning permission in principle would require to be subject to provision of 25% of all housing units to be developed as affordable housing. They should be provided on site or if it can be demonstrated to the Council that this, or the off-site provision of the required affordable units is not practicable, a commuted sum payment should be made to the Council in lieu of such an on or off-site provision. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant confirms they are willing to do, the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

Given the scale of the proposed development, if planning permission in principle were to be granted it would be appropriate for artwork to be incorporated either as an integral part of the overall design of it or as a related commission to be located on the site or in an approved alternative location. This could be achieved by means of a condition on a grant of planning permission in principle, subject to which the proposals would be consistent with the requirements of Policy DP17 of the adopted East Lothian Local Plan 2008.

RECOMMENDATION

It is recommended that planning permission in principle be granted subject to:

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:

(i) a financial contribution to the Council of £1,301,750 (£10,414 per residential unit) towards the provision of additional capacity at Law Primary School and North Berwick High School.

(ii) provision of 25% of the final approved number of residential units within the application site as affordable residential units or if it can be demonstrated to the Council that this, or the off-site provision of 25% of the final approved number of residential units as 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.

(iii) transfer of the title of the land for allotments as shown on the applicant's Indicative Development Framework to the Council at no cost.

(iv) a financial contribution to the Council for an amount to be agreed between the applicant and the Council's Sport, Recreation and Leisure Service towards the provision of recreational play facilities at Recreation Park.

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 a lack of sufficient school capacity at Law Primary School and North Berwick High School, the lack of provision of affordable housing, the lack of provision of play facilities, contrary to, as applicable, Policies INF3, H4 and C2 of the adopted East Lothian Local Plan 2008.

CONDITIONS

- 1 The submission for approval of matters specified in conditions of this grant of planning permission in principle in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) shall include details of the siting, design and external appearance of the residential and business units, the means of access to them, the means of any enclosure of the boundaries of the site and the landscaping of the site. Those details shall generally comply with the Indicative Development Framework docketed to this planning permission in principle, but additionally shall comply with the following design requirements:
 - a. The residential dwellings shall be no more than two storeys in height other than those adjacent to Tantallon Road which shall be one storey in height (including for accommodation in the roof space) and the external finish to their walls shall be predominantly rendered and coloured in accordance with a co-ordinated colour scheme that respects the layout of the development. The buildings for Class 4 use shall be no more than one storey in height and shall be finished in a co-ordinated scheme of materials and colour finishes to minimise their visual impact in the landscape;
 - b. Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street;
 - c. 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 otherwise accord with the principles set out in the Council's Design Standards for New Housing Areas and with Designing Streets;
 - e. Notwithstanding that shown in the Indicative Development Framework docketed to this planning permission in principle, there shall be at least a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing or proposed neighbouring residential properties;
 - f. Notwithstanding that shown in the Indicative Development Framework docketed to this planning

permission in principle, the SUDS provision for the development if retained in the position shown shall be a dry retention basin not requiring fencing and maintainable as a managed recreational area; otherwise the SUDS provision shall be accommodated in an alternative position or by other means as agreed in writing with the Planning Authority.

g. Notwithstanding that shown in the Indicative Development Framework docketed to this planning permission in principle, the southern boundary of the site shall be fully enclosed by a post and wire fence and by the planting of a mixed native species hedgerow along the post and wire boundary fence.

h. Notwithstanding that shown in the Indicative Development Framework docketed to this planning permission in principle, site access to the business use on the northwestern part of the site shall be taken from a point along either the north or west boundaries of that part of the site, in accordance with details to be agreed in advance with the Planning Authority;

i. a detailed vehicle tracking (swept path) for both the residential and business areas shall be provided using the large design rigid vehicle for the whole site. For the avoidance of doubt the Design Vehicle to be used is the "Large Rigid Vehicle" as outlined in the Freight Transport Association's document "Designing for Deliveries" and for the business area the vehicle tracking (swept path) should also include tracking for the "Design Articulated Vehicle".

j. access to the residential area to be accessed directly from the A198 shall be taken via a priority junction with corner radii of 10.5 metres on either side of the junction. Visibility splays of 4.5m by 90m in both directions shall be provided and maintained at the proposed site access junction so that no obstruction lies within them above a height of 1.05 metres measured from the adjacent carriageway surface;

k. access to the business area to be accessed directly from the A198 shall be taken via a priority junction with corner radii of 10.5 metres on either side of the junction. Visibility splays of 4.5m by 70m in both directions shall be provided and maintained at the proposed site access junction so that no obstruction lies within them above a height of 1.05 metres measured from the adjacent carriageway surface;

l. the proposed development shall provide footpath links within the development to the northern and western edges of the development and, where required by the Council's Road Services and Access Officer, to the existing footpath network in the area to provide appropriate routes to primary and secondary schools and to play facilities at Recreation Park to the north;

m. parking for the residential development hereby approved shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads- Part 5 Parking Standards;

n. all access roads shall conform to East Lothian Council Standards for Development Roads and Design Standards for New Housing Areas in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming measures. This shall include for a co-ordinated design to accommodate street trees and swales;

o. driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 metres length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;

p. within residential private parking areas the minimum dimensions of a single parking space shall be 2.5 metres by 5.0 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

q. vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;

r. cycle parking be included at a rate of 1 space for each unit of any flatted accommodation in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed;

s. vehicle parking and cycle parking for the business units shall conform with East Lothian Council Standards for Development Roads;

t. the garden boundary treatments of the development that are publically visible shall be stone or rendered walls, or hedges, and all residential units and other buildings shall have appropriate

boundary treatments on their frontages;

u. a toddlers play area shall be provided within the application site. Details of the toddlers play area, including the equipment to be provided within it and a timetable for its implementation, shall be submitted to and approved in advance by the Planning Authority and the play area shall be installed in accordance with the details so approved;

v. acoustic screening measures shall be provided along the boundary of residential properties with the supermarket site to the north, in accordance with acoustic and landscape details to be agreed with the Planning Authority including for their implementation prior to the occupation of any residential property;

Reason:

To enable the Planning Authority to control the development in the interests of the amenity and visual quality of the development and the area, of the setting of the scheduled monument of North Berwick Law and in the interests of road safety.

- 2 No more than 125 residential units are approved by this grant of planning permission in principle. Unless otherwise approved in writing by the Planning Authority: those residential units shall be completed in accordance with the applicant's proposed phasing of the site: year 1 – 24 residential units; year 2 – 24 residential units; year 3 – 24 residential units; year 4 – 38 residential units; year 5 – 15 residential units; and any slippage in any single year shall revert to year 6 or beyond, and not be added to the subsequent year.

Reason:

To ensure sufficient education capacity can be provided for the pupil product of the development.

- 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 be generally based on the landscape proposals shown in principle on the docketed Indicative Development Framework, and shall otherwise accord with requirements of Condition 1 above. It shall include for tree and hedge planting along the northern boundary with the Tesco site, tree planting along the internal roads and within the internal open spaces and the planting of a mixed native species hedgerow along the southern boundary of the site.

It shall also 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 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 ten 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 No development shall be commenced unless and until a delivery plan for the Class 4 business units hereby approved has been submitted to and agreed in writing with the Planning Authority. Thereafter, the business units shall be delivered in accordance with the delivery plan so agreed.

Reason:

In the interests in securing the delivery of the Class 4 business units in accordance with the aims, objectives and targets of the Council's Economic Development Strategy 2012 -22.

- 5 Prior to the commencement of development at the application site, a scheme to connect to the public waste water network shall be submitted for the written approval of the planning authority, in consultation with Scottish Water. The scheme must demonstrate appropriate alignment of the phasing and timing of the development with the provision of secondary treatment by Scottish Water at the North Berwick Waste Water Treatment Works.

Reason:

To protect people and the environment from the impact of waste water and ensure that the development can be serviced by the public waste water sewerage scheme.

- 6 No development shall take place on the proposed site until the applicant has undertaken and reported upon:

(a) a programme of archaeological work (Field Walking Survey and Evaluation) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority; and

(b) a Heritage assessment of the potential impacts upon the Scheduled Monument of North Berwick Law has been carried out to inform the detailed master planning of the development. This shall follow the guidelines and methodologies outlined in Managing Change in the Historic Environment – Setting Historic Scotland 2010.

Reason:

In the interests of archaeological and natural heritage.

- 7 A Green Travel Plan shall be submitted to and approved by the Planning Authority prior to (i) the occupation of any of the residential units hereby approved and (ii) the business units coming into operation. 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.

Reason:

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

- 8 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 construction traffic and shall include hours of construction work, routes for construction traffic and details of wheel washing facilities to be provided. Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Reason:

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

- 9 Unless otherwise approved in writing by the Planning Authority the allotments hereby approved shall be provided and made available for use prior to the occupation of 60 residential units of the development.

Reason:

In the interests of the amenity of the area.

- 10 Prior to the occupation of any of the residential units hereby approved or any use being made of the business units, all roads and footpaths, including external footpaths as required shall be completed and brought into use in accordance with a phasing of them as agreed with the Roads Authority:

a. a signal controlled pedestrian crossing shall be provided over Dunbar Road (A198) in a position between Glenburn Road and Heugh Road;

b. the existing footway along the site frontage on Tantallon Road shall be replaced and upgraded to include dropped kerb crossings over the A198 to allow barrier free access to the existing bus stops on this part of Tantallon Road;

c. a pedestrian route shall be provided through the business land to the west of the site to allow connection to Heugh Road from the residential units on the site;

d. a pedestrian route between the northernmost part of the site to the supermarket to the west of the northernmost part of the site shall be provided and shall include pedestrian provision within the existing supermarket car park to enable direct access for pedestrians from the residential units of the site;

Details of the new signal controlled pedestrian crossing, the upgraded footway and the crossing points and the provision of pedestrian links to the adjoining land uses shall be submitted to and approved in advance by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety and to enable safe access to schools.

- 11 Details of the proposed integrated sustainable urban drainage scheme (SUDS) 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 provide for two levels of treatment. Details shall include:

- o Results of any investigation of the receiving watercourse and culvert upstream of Tantallon Road as per the recommendations provided in SEPA's consultation response dated 29 September 2015;
- o Amended details of the proposed SUDS system including adoption and maintenance Arrangements; and
- o Details of flow paths with regards to exceedance flood events

The integrated 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.

- 12 The design and installation of any plant or equipment associated with the operation of each of the Class 4 business units shall be such that noise emanating from them shall not exceed Noise Rating Curve NR25 at any Octave Band Frequency when measured within any existing or proposed neighbouring residential property assuming windows open at least 50mm.

Reason:

To ensure the Class 4 business units do not harm the amenity of nearby residential properties.

- 13 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.

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

3

Application No. **15/00473/PPM**

Proposal Planning permission in principle for residential development, retail (class 1) , office units (class 2) and restaurant/cafe (class 3) uses and a cemetery together with associated access, infrastructure, landscape and open space

Location **Dolphingstone Farm
Land Adjacent B1361
Edinburgh Road
Prestonpans
East Lothian**

Applicant Hallam Land Management Ltd

Per RFA

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

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

As a statutory requirement of major development type proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 14/00006/PAN) and thus of community consultation prior to this application for planning permission in principle being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that some 47 people attended the pre-application public exhibition, which was held over a two day period on the 7 and 8 April 2014 at the Prestonpans

Community Centre, Prestonpans, and that those attendees made a number of queries and suggestions regarding the proposals. The development for which planning permission in principle is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

The application site is an area of agricultural land in the East Lothian countryside, located to the east of Prestonpans. It is within the Edinburgh Green Belt. It is some 8.5 hectares in area and is roughly rectangular shaped. The site is within the battlefield site of the Battle of Pinkie that is included in Historic Scotland's Inventory of Historic Battlefields.

The site is bounded to the east by a wide access track, and the land beyond is the subject of outline planning permission 99/00826/OUT (now known as planning permission in principle), granted in July 2003 for the residential development of the 25 hectares of land. On 23 December 2005 reserved matters approval 04/01449/REM (now known as approval of matters specified in conditions) was granted for the erection of 332 houses and 62 flats on some 17.6 hectares of the 25 hectares of land that is the subject of outline planning permission 99/00826/OUT. The development the subject of reserved matters approval 04/01449/REM is well underway.

To the north of the site is the B1361 road with the Royal Musselburgh Golf Course beyond. To the south is the East Coast Main Line. To the west of the site is an area of mature woodland and agricultural land.

Along the eastern, southern and western sides of the site is a former railway embankment on which are belts of mature trees, hedgerows and shrubs. This landscape feature has significant amenity value giving a landscape setting to the western edge of Prestonpans.

Planning permission in principle is sought through this application for a residential development of the application site along with retail (class 1), office units (class 2) and restaurant/cafe (class 3) uses and a cemetery together with associated access, infrastructure, landscape and open space.

An indicative illustrative masterplan has been submitted with the application indicating how some 160 residential units could be accommodated on the application site. It is also indicated that a new neighbourhood centre could be provided on the northeast part of the site which could comprise of 400 square metres of class 1 retail space, 100 square metres of class 2 office space and 200 square metres of class 3 restaurant/cafe space. It is also indicated that a new cemetery could be formed on the western part of the site. The indicative illustrative masterplan also indicates how a SUDS pond be accommodated on the southeastern part of the site and how a central neighbourhood park could be accommodated centrally within the site. It is also indicated how footpath linkages could be formed from the housing development part of the site into the cemetery and into the access track which bounds the east of the site and how landscape planting could be formed on the northern boundary of the site.

The indicative illustrative masterplan indicates that access to the housing part of the site could be taken from two points from the B1361 road by way of two new access junctions and that a new access junction could be created from the B1361 road to access the cemetery.

The application site was submitted as part of the local development plan process following a call for sites by the Council as part of the research towards the new Local

Development Plan. The Council's Main Issues Report (MIR) is the consultation document which considers such submissions and other sites prior to the formation of a proposed Plan. The MIR does not propose the application site as a preferred site or an alternative site for housing in relation to the proposed preferred development strategy. The MIR is a material consideration, however, as a consultation document it can be accorded only limited weight at this stage.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 26 March 2014 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission in principle. It is therefore the opinion of East Lothian Council as Planning Authority that there is a requirement for the proposed development to be the subject of an EIA.

An Environmental Statement has been submitted with the application and contains an introduction and chapters on: description of the development, socio-economics, transportation and access, noise and vibration, air quality, ecology, archaeology and cultural heritage, landscape and visual impact assessment, ground conditions and water sources, cumulative impacts and summary of impacts. A planning statement and transport assessment have also been submitted with the planning application.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policies 3 (Town Centres and Retail), 5 (Housing Land), 7 (Maintaining a Five Year Housing Land Supply) and 12 (Green Belts) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), DC2 (Development in the Edinburgh Green Belt), DP1 (Landscape and Streetscape Character), DP14 (Trees on or Adjacent to Development Sites), DP17 (Art Works-Percent for Art), DP20 (Pedestrians and Cyclists), ENV7 (Scheduled Monuments and Archaeological Sites), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), T1 (Development Location and Accessibility), T2 (General Transport Impact) and R1 (New Shops) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Also material to the determination of the application is Scottish Planning Policy: June 2014.

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

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

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

Paragraph 34 states that where a plan is under review, it may be appropriate in some circumstances to consider whether granting planning permission would prejudice the emerging plan. Such circumstances are only likely to apply where the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan. Prematurity will be more relevant as a consideration the closer the plan is to adoption or approval.

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

At its Cabinet meeting of 10 December 2013, the Council agreed that East Lothian has a shortfall in its effective housing land supply. At that meeting the Council also approved Interim Planning Guidance against which planning applications for housing on land not allocated for housing development will be assessed. A revised version of the 'Housing Land Supply: Interim Planning Guidance' was approved by the Council on 16th December 2014.

The application site is not allocated for residential development. Therefore the approved Interim Planning Guidance is a material consideration in the determination of this planning application.

Eleven written objections have been received in respect of this application.

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

The main grounds of objection are that the proposed development:

- * would be contrary to the development plan;
- * would be on Green Belt land and lead to coalescence;

- * would lead to a burden on local schools and a doctors surgery;
- * would lead to noise and disturbance from the proposed neighbourhood centre;
- * could lead to a loss of trees which are important to the visual amenity of the area;
- * would lead to increased traffic and thus a potential road safety hazard, and;
- * be on contaminated land.

Other grounds of objection are that there is insufficient sewage capacity and that the site may not be deliverable.

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

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

The land of the application site is defined by Policy DC2 of the adopted East Lothian Local Plan 2008 as being part of the Edinburgh Green Belt. Within East Lothian, the Green Belt surrounds Musselburgh and Wallyford and extends towards Prestonpans and Tranent. The adopted Local Plan states it plays an important role in protecting the landscape setting of Musselburgh and the western edges of Prestonpans and Tranent as well as the landscape setting of the eastern edge of Edinburgh.

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

Local Plan Policy DC1 (Development in the Countryside and Undeveloped Coast) provides the detailed context for the consideration of development proposals in East Lothian's countryside and coast. The Edinburgh Green Belt also includes countryside and coast, its specific purpose being to maintain the identity and landscape setting of the city and neighbouring towns and to prevent their coalescence. Thus, the Local Plan's Green Belt policy, Policy DC2, must take these additional considerations into account. It is explained in the Local Plan that most parts of Policy DC1 remain relevant to a consideration of development with the Edinburgh Green Belt, but new build development must be restricted further than in the wider East Lothian countryside. The local plan's Green Belt policy therefore excludes Parts 1 and 3 of Policy DC1.

Policy DC2 of the adopted East Lothian Local Plan 2008 sets out the circumstances in which new housing within the Green Belt may be appropriate. Policy DC2 only allows for new build housing development in the Green Belt where it is necessary for agricultural, horticultural or forestry operations, for countryside recreation, or where by its scale and nature it will not harm the rural character of the area; and where it meets the requirements of Local Plan Policy DC1 Part 5; and in all cases, where it does not detract from the landscape setting of Edinburgh and its neighbouring towns, or lead to their coalescence.

The proposed residential and associated development proposed in this application is not necessary for agriculture, horticulture, forestry operations or countryside recreation.

On these considerations it is contrary to Policy DC2 of the adopted East Lothian Local Plan 2008.

However, the South East Scotland Strategic Development Plan (SESplan) requires that Policies DC1 and DC2 be considered in the context of the current housing land supply.

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

SESplan Policy 7 states that sites for greenfield housing development proposals either within or outwith the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain an effective five years housing land supply subject to satisfying each of the following criteria:

- (a) The development will be in keeping with the character of the settlement and the local area;
- (b) The development will not undermine green belt objectives; and
- (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

In relation to Green Belts SESplan Policy 12 states that Local Development Plans will define and maintain Green Belts around Edinburgh and to the southwest of Dunfermline for the purpose to:

- (a) Maintain the identity and character of Edinburgh and Dunfermline and their neighbouring towns, and prevent coalescence, unless otherwise justified by the Local Development Plan settlement strategy;
- (b) Direct planned growth to the most appropriate locations and support regeneration;
- (c) Maintain the landscape setting of these settlements; and
- (d) Provide opportunities for access to open space and the countryside.

East Lothian Council has agreed that East Lothian has a shortfall in its effective housing land supply. In respect of this the Council approved its Housing Land Supply: Interim Planning Guidance against which planning applications for housing on land not allocated for that purpose will be assessed. Whilst Scottish Government Reporters have accorded differing weight to this guidance in different appeal decisions, its criteria remain fundamental material planning considerations.

The approved Interim Planning Guidance states that the weight the Council affords its terms, and the terms of other Development Plan policies, to individual planning applications will depend on the extent to which the proposed development is able to satisfy the following criteria:

- 1 Effectiveness;
- 2 Scale;
- 3 Timing;
- 4 Development Plan Strategy; and
- 5 Locational Considerations.

In respect of criteria 1; effectiveness, the applicants' agent has confirmed that there are no physical constraints to the development of the site, it is in a highly marketable location where there is established demand and confirms there is developer interest from house builders should planning permission in principle be granted, meaning in these respects it can be considered to be physically and financially capable of achieving early delivery. On these specific considerations the site can be considered to be effective.

In respect of criteria 2; scale, the proposed housing development of 160 residential units would be below the Guidance threshold of 200 units. In respect of this the Guidance states that the actual number of houses permissible on any one site or within any one settlement will be assessed against the scale and character of the specific settlement.

Given the current size of Prestonpans the proposed 160 houses would be a relatively modest addition to the town. Prestonpans is well served by existing public services such as shops, cafes, public houses, schools and businesses. In addition to the accessibility of these existing facilities, the site is such that it could be reasonably well integrated into its surroundings. In this it would not bring significant change to the character of Prestonpans. Given the size of the site, the proposed density of development and that it would not bring significant change to the character of Prestonpans the loss of prime agricultural land would be minimised.

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

In respect of criteria 3; timing, the applicant's agent again refers to the interest in the site from a housing developer. It is indicated that the housing could be delivered within 5 years. There is no evidence to suggest that they would not be able to develop the site within this suggested timescale.

In respect of criteria 4; development plan strategy, it is considered that the proposed housing would not prejudice the delivery of the existing Development Plan strategy. It would not compromise the ability to provide infrastructure to existing housing land allocations that do not yet have planning permission, or are committed but have not yet started. Nor would it be dependent on the prior provision of infrastructure required by existing housing land allocations that do not yet have planning permission or are committed but have not yet started. Whilst not a preferred or reasonable alternative site in the MIR, this can only be given limited weight.

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

As Prestonpans lies within the East Lothian Strategic Development Area the proposed development also has to be assessed against the tests as set out in parts (i) and (ii) of criteria 5.

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

- (a) the site is not within the Edinburgh Green Belt; and
- (b) the site is a consolidation of or an appropriate extension to an existing settlement

identified in the East Lothian Local Plan 2008, and its scale and nature is in keeping with the scale and character of that settlement and the local area, and

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

(d) the site's development for housing is consistent with all other relevant development plan policies.

In regard to proviso 5(i)(a) the site is in the Edinburgh Green Belt. However, in this, consideration must be given to the degree in which the proposed development meets the objectives of SESplan Policy 12.

In terms of objectives (a) and (c) of Policy 12 the site has the Royal Musselburgh Golf Course to the north, the East Coast Main line and agricultural land beyond to the south and mature tree planting and agricultural land to the west. In this locational context there would still remain intervening land and robust boundaries between the application site and the neighbouring towns of Wallyford and Musselburgh such that the separate forms and identities of those places would be maintained. Thus there would be no consequential coalescence and the landscape setting of these settlements would not be compromised.

On this consideration robust boundaries and coalescence of settlements, it is an important principle that if planning permission in principle were to be granted, this should be on the basis of appropriate design principles which secure the retention of trees on and adjacent to the site.

In terms of objectives (b) and (d) of Policy 12 a development of the site would in time form a logical extension of Prestonpans, once housing land to the east has been built out, and would allow for access to open space and the surrounding countryside.

It should be noted that a recent appeal decision against the Council's refusal of planning permission in principle for the erection of 52 residential units on land at Old Craighall Road in Edinburgh Green Belt allowed that appeal and granted planning permission in principle with due consideration of the need to contribute to the five year housing land supply.

These above material considerations outweigh proviso 5(i)(a) of the Council's approved Interim Planning Guidance.

In respect of Scottish Planning Policy's requirement for careful consideration of whether or not a grant of planning permission would prejudice the emerging plan, whilst the MIR has preferred sites and safeguards on the edges of Musselburgh and Wallyford, the cumulative effects of this site with those particular sites would be limited by this site's own robust boundaries. In this it would not undermine the plan-making process.

In regard to proviso 5(i)(c) there is no evidence to suggest that infrastructure is not available or cannot be made available within a timescale that allows for early house completions. In respect of 5(i)(d) the proposal does not conflict with other development plan policies.

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

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

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

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

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

In terms of part 5(ii)(a) Prestonpans itself is well served by public transport, though this site is neither within 400 metres of a bus stop nor within 800 metres of a railway station. It is, however, within some 1300 metres of Wallyford railway station and closer than that to the park and choose facility at Wallyford Toll. Therefore the site could be said to be reasonably well served by public transport.

In terms of part 5(ii)(b) Prestonpans has a wide range of services and facilities, though the site is some 1600 metres walking distance from the main facilities of the town. In addition there is planning permission for retail and other commercial uses at Mid Road to the east, an application for retail and residential use to fulfil part of the masterplan for development at Edinburgh road to the east is under consideration and the proposal includes for some commercial facilities also. In these circumstances therefore the proposals do not conflict with this consideration.

In terms of part 5(ii)(c) the additional housing would help make a contribution to sustaining educational, social and community facilities within the local area.

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

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

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

The application site is bounded on its east side by an access road, on its south side by the East Coast Main Line, on its west side by a belt of mature trees and on its northern side by the B1361 road. These are robust and defensible boundaries which would serve to contain the proposed development along these aforementioned boundaries. On this consideration, it is an important principle that if planning permission in principle were to be granted, this should be on the basis of appropriate design principles which secure the retention of trees on and adjacent to the site.

Thus on this consideration the principle of a housing development of the application site is consistent with the Council's Housing Land Supply: Interim Planning Guidance.

In terms of the proposed neighbourhood centre this has to be taken into consideration of the context of the wider proposals for a residential development of the site.

In this it is stated in Scottish Planning Policy: June 2014 that the impact of new development on the character and amenity of town centres, local centres and high streets will be a material consideration in decision making. The aim is to recognise and prioritise the importance of town centres and encourage a mix of developments which support their vibrancy, vitality and viability. This aim should also be taken into account in decisions concerning proposals to expand or change the use of existing development. Where a retail and leisure development with a gross floorspace over 2,500m² is proposed outwith a town centre, contrary to the development plan, a retail impact analysis should be undertaken. For smaller retail and leisure proposals which may have a significant impact on vitality and viability, planning authorities should advise when retail impact analysis is necessary.

Policy 3 of the approved South East Scotland Strategic Development Plan (SESPlan) and Policy R1 of the adopted East Lothian Local Plan 2008 require application of the sequential approach to the siting of new retail development. This is consistent with Scottish Planning Policy on retail development. The sequential approach requires that locations are considered in the order of: (i) town centre; (ii) edge of town centre; (iii) other commercial centres identified in the development plan; and (iv) out of centre locations that are or can be made easily accessible by a choice of transport modes. Under the test of the sequential approach the requirement is for a planning authority to ensure that retail development would not harm the vitality and viability of existing town centres. Another consideration is that the retail development should address a local qualitative or quantitative deficiency and be restricted to a scale that meets this deficiency.

The retail unit of the proposed neighbourhood centre in this application would have a total of 400 square metres of floor space. In this regard, a retail unit of such a size would not have a significant impact on the vitality and viability of the town centre. It would provide for local needs and would not be a challenge to town centre retailers. It is not therefore necessary in this case for a retail impact analysis of the proposed retail unit to be undertaken. In conclusion on the matter of retail impact the proposed retail unit is consistent with Policy 3 of the approved South East Scotland Strategic Development Plan (SESPlan) and Policy R1 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: June 2014.

Moreover in the particular circumstances of this case the proposed 100 square metres of class 2 office space and 200 square metres of class 3 restaurant/cafe space would be acceptable uses of a small part of the land if it is considered that the main residential use of it is consistent with the Council's Housing Land Supply: Interim Planning Guidance. They would operate in conjunction with and as an addition to the main housing use of the site and would create employment that would be beneficial to the economy of East Lothian.

If planning permission in principle were to be granted, the details of the siting, design and external appearance of the proposed houses and neighbourhood centre, the landscaping of the site, the cemetery and the means of access to the proposed development would require the subsequent approval of the Planning Authority. Through the subsequent determination of such details in relation to Scottish Government Policy of Designing Streets and the Council's Urban Design Standards for New Housing Areas, planning control would be exercised to ensure that the built form of the development would be fully acceptable, with due regard to the need to safeguard the character and appearance of this site.

If the principle of housing on part of the application site is acceptable, then the development of it should accord with the design principles that apply to the allocated housing land to the east of the site. A key part of this is that a dedicated landscaped strip

with an average width of 10 metres must be provided along the site frontage with the B1361 road, consistent with the Council's achievement of this design principle for the housing development land to the east of the application site. A further part of this design principle is that a natural stone wall must be formed on the southern side of the dedicated landscaped strip on the northern boundary of the site, with an average height of 1 metre.

The Council's Principal Amenity Officer is satisfied in principle with the quantity of open space that is indicatively proposed. He advises it is likely that formal toddler play provision will be required subject to safe and appropriate access. This could be secured by a condition on a grant of planning permission in principle. He is also supportive of the principle of the provision of a new cemetery, which accords with the Council's adopted Burial Ground Strategy. On these considerations of open space, play area and cemetery provision, the principle of the proposed housing development is consistent with Policies C1 and C2 of the adopted East Lothian Local Plan 2008 and with the Council's adopted Burial Ground Strategy.

In respect of the land of the cemetery, the Council's Sport, Countryside and Leisure Service has agreed an option for that part of the site, subject to a grant of planning permission in principle. That option is a matter between that service of the Council and is not a material planning consideration. From this arrangement it could be considered that the Council has an interest in the land of the application site. In relation to this, providing a grant of planning permission in principle is not significantly contrary to the development plan, there is no requirement to notify Scottish Ministers.

The Council's Archaeology Officer advises that the proposed development would be situated in an area where there are known cropmarks of potential prehistoric date. Because of this the Archaeology Officer recommends that a programme of archaeological works be carried out prior to the commencement of development. This can be secured through a condition attached to a grant of planning permission in principle for the proposed development. This approach is consistent with Scottish Planning Policy: June 2014 and Planning Advice Note 2/2011: Planning and Archaeology.

The Archaeology Officer further advises that the site is located on part of the area of the Battle of Pinkie, however, he raises no objection on this consideration, being satisfied that the proposed development would not harm the landscape characteristics of the core part of the battlefield site. Historic Scotland have been consulted on the application and are content that the proposed development would not have an adverse impact on the landscape characteristics of the core part of the battlefield site.

On this consideration the proposed development complies with Policy ENV7 of the adopted East Lothian Local Plan 2008, the Scottish Historic Environment Policy: December 2011 and Scottish Planning Policy: June 2014.

The Council's Roads Services has considered the Transport Assessment submitted with the application and does not advise that traffic likely to be generated by the proposed development could not be satisfactorily accommodated on the local road network. Roads Services do raise concern that traffic likely to be generated by the proposed development could lead to extra pressure on traffic flows at Dolphingstone and Salters Road interchanges. However at this time Roads Services analysis and modelling of traffic impacts in the wider area awaits completion and no further information is available at this time to inform an assessment of such impacts.

Roads Services recommend that any grant of planning permission in principle be subject to conditions requiring that:

- * the existing 40 miles per hour (mph) speed limit on the B1361 road be extended along the entire length of site frontage and include village entry treatments;
- * an independent road safety audit be undertaken for the proposed site access junctions onto the B1361 road;
- * visibility splays of 4.5m by 90m in both directions be provided and maintained at the proposed site access junctions with the B1361 road so that no obstruction lies within them above a height of 1.05 metres measured from the adjacent carriageway surface;
- * street lighting be extended to the new 40mph extents;
- * a continuous 2 metre wide footway be provided on the south side of the B1361 road along the site frontage to link into the existing footway network, with dropped kerbs provided as necessary;
- * the footway on the northern side of the B1361 be upgraded to a minimum of 2 metre wide for a distance commensurate with the site frontage between the Royal Musselburgh Golf Club entrance and the U104 Drummohr Road;
- * the proposed site access junctions onto the B1361 be designed in accordance with the Design Manual for Roads and Bridges, Volume 6;
- * two Double D Island crossing points be provided on the B1361 road to provide pedestrians with safe crossing points on appropriate desire lines;
- * parking for the proposed residential elements of the development be provided at a rate as set out in the East Lothian Council Standards for Development Roads – Part 5 Parking Standards;
- * all access roads conform to East Lothian Council Standards for Development Roads in relation to roads layout and construction, footways & footpaths, parking layout and number, street lighting and traffic calming measures;
- * vehicle accesses to private parking areas (i.e. other than driveways) be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;
- * driveways having minimum dimensions of 6 metres by 3 metres and double driveways having minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;
- * within residential private parking areas the minimum dimensions of a single parking space being 2.5 metres by 5 metres and all visitor parking spaces within these areas being clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;
- * cycle parking 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;
- * the cemetery be designed with appropriate levels of parking so that no parking shall overspill onto the B1361 road;

- * the cemetery access be suitable for the two way movement of vehicles so that no vehicle has to wait on the B1361 road whilst a vehicle is egressing. Vehicles should also be able to enter and leave the site in a forward gear;
- * any access gates to the cemetery be set back a minimum of 20 metres from the access junction with the B1361 road so that no vehicle has to wait on the B1361 whilst the gates to the cemetery are opened and closed;
- * a Green Travel Plan (GTP) be submitted and approved in consultation with Roads Services. It should have particular regard to provision for walking, cycling and public transport access to and within the site, and will identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan;
- * a Construction Method Statement to minimise the impact of construction activity on the public road network be submitted to and approved by the Planning Authority prior to the commencement of development. It should recommend mitigation measures to control construction traffic and include hours of construction work; and
- * wheel washing facilities be provided and maintained in working order during the period of operation of the site.

With the use of conditions to cover these recommendations of Roads Services, the principles of the proposed development of the site for residential, neighbourhood centre and cemetery use do not conflict with Policies DP20, T1 and T2 of the adopted East Lothian Local Plan 2008.

Transport Scotland advise that they have concern in regard 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 this regard they have sought a contribution from the developer towards mitigation of this perceived impact. Transport Scotland advise that it has entered into an agreement with the applicant under Section 48 of the Roads (Scotland) Act to secure a financial contribution. Given this, Transport Scotland raises no objection to the application.

Network Rail raises no objection to the application, noting some advisory points to be passed to the applicant.

In respect of landscape matters the Council's Landscape Projects Officer advises that the mature trees and hedgerows on the eastern, southern and western sides of the site that are on the former railway embankment have significant visual amenity and provide an important mature landscape setting to the western edge of Prestonpans and this regard must be retained to preserve the landscape setting of Prestonpans. In terms of a proposed development on the site the retention of these trees and hedgerows would reinforce the natural boundary separation between the adjacent housing development to the east and help screen the site in views from the East Coast railway line and the A199 and A1 to the south. The tree belts to the west provide an element of screening which make an essential contribution to the separation of the site from land to the west, helping to mitigate against coalescence, and form a robust boundary in terms of the Interim Planning Guidance.

The Landscape Projects Officer advises that the location of elements of the proposed built development on the east and south sides of the site as shown on the indicative illustrative masterplan would either result in the eradication of the mature trees or incursions into their root protection areas and canopies which could be detrimental to their health and stability eventually leading to their loss. As these trees provide a

significantly important landscape setting to Prestonpans she recommends the trees must be retained. Therefore development on the site must be carried out in accordance with British Standard BS5837 2012 "Trees in relation to design, demolition and construction ~ Recommendations' sections 4, 5, 6, 7 and 8. This can be made a condition of any grant of planning permission in principle, subject to which it complies with Policy DP14 of the adopted East Lothian Local Plan 2008.

Scottish Natural Heritage raises no objection to the application on the grounds of national landscape or biodiversity matters.

The Council's Biodiversity Officer advises he has no objection. He recommends that planting be native species planting to enhance the biodiversity value of the site.

The Council's Environmental Protection Manager advises that to ensure there is no loss of amenity to any existing neighbouring or nearby residential properties during the construction phase of the development that a Construction Method Statement should be submitted for the prior approval of the Planning Authority which should cover matters of noise and dust control.

The Environmental Protection Manager also advises that for the completed development, noise control measures should be imposed to ensure no loss of amenity to the residential properties. This requires further noise assessment in relation to:

- * mitigation of noise from the B1361 road by acoustic barrier or separation distances in respect of daytime garden noise levels;
- * mitigation measures in the form of upgraded glazing and ventilation units for properties on the northern boundary of the site in respect of daytime and night-time internal noise levels; and
- * mitigation measures in the form of upgraded ventilation units will be required for properties along the Southern boundary of the site in respect of noise associated with the east coast main line.

The Council's Environmental Protection Manager additionally advises that there is contamination of the soils on the site. Consequently she recommends that a comprehensive contaminated land investigation shall be carried out. She also advises that the impacts upon local Air Quality, in particular within the Air Quality Management Area (AQMA) on Musselburgh High Street have been assessed and impacts upon the existing AQMA are not significant to merit mitigation.

Subject to the use of conditions to secure these environmental protection measures, the proposed development would not harm the amenity of any existing neighbouring or nearby residential properties, consistent with Policy DC1 of the adopted East Lothian Local Plan 2008 and the proposed residential units would have a satisfactory standard of amenity.

The Scottish Environment Protection Agency (SEPA) raise no objection to the principle of the proposed development on the grounds of potential flood risk. They do advise that a condition should be attached to any grant of planning permission in principle requiring details of the SUDS (Sustainable Drainage Systems) to be provided on site be submitted for prior approval.

SEPA further advise that further information requires to be submitted to assess the risks to the water environment from the proposed cemetery. SEPA have been sent a Risk Assessment Report, which concludes that the proposed cemetery would, in all likelihood, not have a deleterious impact on the underlying groundwater bodies and in

turn have no impact on potential environmental receptors. No response on this matter has been received by SEPA and it is therefore an unresolved material consideration in the determination of this application.

Scottish Water have made no comment on the application.

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

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

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

The Council's Depute Chief Executive (Resources and People Services) informs that the application site is located within the school catchment areas of Prestonpans Infant and Nursery School, Prestonpans Primary School, St Gabriel's RC Primary School, and Preston Lodge High School.

He advises that Prestonpans Infant and Nursery School, Prestonpans Primary School and Preston Lodge High School do not have sufficient capacity to accommodate children that could arise from the proposed development. Thus he objects to the application on the grounds of lack of permanent capacity at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of; £124,137.60 towards the provision of additional nursery accommodation at Prestonpans Infant and Nursery School (£775.86 per unit), £573,792 towards the provision of additional school accommodation at Prestonpans Infant and Nursery School (£3586.20 per unit), £174,720 towards the provision of additional school accommodation at Prestonpans Primary School (£1,092 per unit) and a contribution of £43,635.20 (£272.72 per unit) towards the provision of additional school accommodation at Preston Lodge High School.

The required payment of a financial contribution of a total of £916,284.80 towards the provision of additional accommodation at Prestonpans Infant and Nursery School, Prestonpans Primary School and Preston Lodge High School can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the

development is made. This will include funding necessary school capacity. The applicant confirms in writing that they are willing to enter into such an agreement.

The Council's Economic Development & Strategic Investment Manager advises that a grant of planning permission in principle would require to be subject to provision of 25% of all housing units to be developed as affordable housing. They should be provided on site or if it can be demonstrated to the Council that this, or the off-site provision of the required affordable units is not practicable, a commuted sum payment should be made to the Council in lieu of such an on or off-site provision. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant confirms they are willing to do, the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

Given the scale of the proposed development, if planning permission in principle were to be granted it would be appropriate for artwork to be incorporated either as an integral part of the overall design of it or as a related commission to be located on the site or in an approved alternative location. This could be achieved by means of a condition on a grant of planning permission in principle, subject to which the proposals would be consistent with the requirements of Policy DP17 of the adopted East Lothian Local Plan 2008.

In the context of the acknowledged shortfall in the five year housing land supply, the site being effective and deliverable and being capable of being developed appropriately subject to conditions on the principles and detail of its development, most significantly in the retention of trees around the boundaries of the site, the balance of the material considerations is to recommend granting planning permission in principle. In this it is considered that the proposal is not significantly contrary to the development plan.

RECOMMENDATION

It is recommended that planning permission in principle be granted subject to:

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:
 - (i) Secure from the applicant a financial contribution to the Council of £916,284.80 (£5,726.78 per residential unit) towards the provision of additional capacity at Prestonpans Infant and Nursery School, Prestonpans Primary School and Preston Lodge High School.
 - (ii) Secure from the applicant the provision of 25% of the final approved number of residential units within the application site as affordable residential units or if it can be demonstrated to the Council that this, or the off-site provision of 25% of the final approved number of residential units as 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 a lack of sufficient school capacity at Prestonpans Infant and Nursery School, Prestonpans Primary School and Preston Lodge High School and the lack of provision of affordable housing, contrary to, 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 in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) shall include details of the siting, design and external appearance of the residential units, the neighbourhood centre and the cemetery, the means of access to them, the means of any enclosure of the boundaries of the site and the landscaping of the site. Those details shall generally comply with the Illustrative Masterplan docketed to this planning permission in principle, but additionally shall comply with the following design requirements:
 - a. The residential dwellings shall be predominantly two storeys in height and no higher than three storeys in height and the external finish to their walls shall be predominantly rendered and coloured in accordance with a co-ordinated colour scheme that respects the layout of the development;
 - b. Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street;
 - c. 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 otherwise accord with the principles set out in the Council's Design Standards for New Housing Areas and with Designing Streets;
 - e. Notwithstanding that shown in the Illustrative Masterplan docketed to this planning permission in principle, there shall be at least a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing or proposed neighbouring residential properties;
 - f. an independent road safety audit shall be undertaken for the proposed site access junctions onto the B1361 road;
 - g. the proposed site access junctions onto the B1361 road shall be designed in accordance with the Design Manual for Roads and Bridges, Volume 6;
 - h. visibility splays of 4.5m by 90m in both directions shall be provided and maintained at the proposed site access junctions with the B1361 road so that no obstruction lies within them above a height of 1.05 metres measured from the adjacent carriageway surface;
 - i. the proposed development shall be carried out in strict accordance with British Standard BS5837_2012 "Trees in relation to design, demolition and construction ~ Recommendations' sections 4, 5, 6, 7 and 8 and an arboricultural survey demonstrating this shall be submitted with application(s) for approval of matters specified in conditions;
 - j. parking for the residential development hereby approved shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads- Part 5 Parking Standards;
 - k. all access roads shall conform to East Lothian Council Standards for Development Roads and Design Standards for New Housing Areas in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming measures;
 - l. driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 metres length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;
 - m. within residential private parking areas the minimum dimensions of a single parking

space shall be 2.5 metres by 5.0 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

n. vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;

o. cycle parking 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;

p. the cemetery shall be designed with appropriate levels of parking so that no parking shall overspill onto the B1361 road;

q. the cemetery access be suitable for the two way movement of vehicles so that no vehicle has to wait on the B1361 road whilst a vehicle is egressing. Vehicles should also be able to enter and leave the site in a forward gear;

r. any access gates to the cemetery shall be set back a minimum of 20 metres from the access junction with the B1361 road so that no vehicle has to wait on the B1361 whilst the gates to the cemetery are opened and closed;

s. a toddlers play area shall be provided within the application site. Details of the toddlers play area, including the equipment to be provided within it and a timetable for its implementation, shall be submitted to and approved in advance by the Planning Authority and the play area shall be installed in accordance with the details so approved;

t. a dedicated landscape strip with an average width of 10 metres shall be provided along the entire northern frontage of the application site;

u. a natural stone wall shall be formed along the entire length of the southern side of the dedicated landscaped strip on the northern boundary of the site as required by 1t above and the stone wall shall have an average height of 1 metre. Details of the exact position, height and construction of the wall shall be submitted to and approved in advance by the Planning Authority and shall include a timetable for implementation and the stone wall shall be erected in accordance with the details so approved; and

v. pathways within the site shall link to the path that runs eastwards from the site, adjacent to the disused section of railway line.

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 No more than 160 residential units are approved by this grant of planning permission in principle. Unless otherwise agreed in writing with the Planning Authority: the annual completion rates shall be those set out by the applicant i.e. 40 units per annum over a 4 year development period; and any slippage in any single year shall revert to year 5 or beyond, and not be added to the subsequent year.

Reason:

To ensure sufficient education capacity can be provided for the pupil product of the development.

- 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 be generally based on the landscape proposals shown in principle on the docketed Indicative Masterplan, shall include predominantly native species planting and shall otherwise fully accord with requirements of Conditions 1i and 1t above.

It shall also 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 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 ten

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 A Green 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 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.

Reason:

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

- 5 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 construction traffic and shall include hours of construction work and details of wheel washing facilities to be provided. Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Reason:

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

- 6 No development shall commence unless and until the existing 40 miles per hour (mph) speed limit on the B1361 road has been extended along the entire length of the application site frontage which shall include village entry treatments. Details of the extension to the existing 40 miles per hour speed limit and village entry treatments shall be submitted to and approved in advance by the Planning Authority and shall include the provision of street lighting along the length of it. Thereafter the extended 40 miles per hour speed limit, village entry treatments and street lighting shall be implemented and installed in accordance with the details so approved.

Reason:

In the interests of road safety.

- 7 Prior to the occupation of any of the residential units hereby approved or any use being made of the neighbourhood centre:

a. a continuous 2 metre wide footway shall be provided on the south side of the B1361 road along the site frontage to link into the existing footway network, with dropped kerbs provided as necessary;

b. the footway on the northern side of the B1361 shall be upgraded to a minimum of 2 metres wide for a distance commensurate with the site frontage between the Royal Musselburgh Golf Club entrance and the U104 Drummohr Road;

c. two Double D Island crossing points shall be formed on the B1361 road to provide pedestrians with safe crossing points on appropriate desire lines.

Details of the new 2 metre wide footway, the upgraded footway and the crossing points shall be submitted to and approved in advance by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 8 Details of the proposed integrated sustainable urban drainage scheme (SUDS) 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 provide for two levels of treatment.

The integrated 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.

- 9 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 (Evaluation and Metal Detecting Survey) 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.

- 10 Prior to the commencement of development a comprehensive contaminated land investigation shall be carried out and a report on the findings of it shall be submitted to and approved by the Planning Authority. The report must include a site-specific risk assessment of all relevant pollutant linkages.

Where the site-specific risk assessment identifies any unacceptable risk or risks, development shall not begin until a detailed remediation strategy has been submitted to and approved by the Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved remediation strategy. Any subsequent amendments to the approved remediation strategy shall not be implemented unless approved in advance by the Planning Authority.

On completion of the remediation strategy and prior to the commencement of development a validation report shall be submitted to and approved by the Planning Authority confirming that the remediation of the site has been carried out in accordance with the approved remediation strategy.

The presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall immediately be brought to the attention of the Planning Authority to investigate whether further works shall be required to be carried out to determine if any additional remedial measures are required.

Reason:

To ensure that the site is clear of contamination.

- 11 Prior to the commencement of development intrusive investigation works shall be carried out at the application site in accordance with detail to be submitted to and approved in advance by the Planning Authority following consultation with The Coal Authority to assess ground stability due to former mine workings at the site. In the event that the intrusive investigation works confirm the need for remedial works to treat any areas of shallow mine workings, development shall not begin until a scheme of remedial works on the site has been submitted to and approved in writing by the Planning Authority, and thereafter have been fully implemented as so approved.

Reason:

To ensure that the site is clear of coal mining features and hazards prior to the occupation of any of the buildings.

- 12 A Construction Method Statement to specify the measures to be adopted to protect the amenity of neighbouring residential properties from the effects of noise and dust arising as a result of the construction phase of the proposed development shall be submitted to and approved by the Planning Authority prior to the commencement of development.

Reason:

In the interests of the amenity of the area.

- 13 Prior to the commencement of development a noise report shall be submitted to and approved in advance by the Planning Authority which shall demonstrate compliance with the following requirements, and any measures necessary to achieve the requirements shall be fully implemented as so approved:

a. the garden areas of the residential dwellings shall achieve the upper limit for daytime garden noise levels of 55dB(A)eq,t specified in paragraph 7.7.3.2 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings" due to noise associated with road traffic on the B1361;

b. within the residential dwellings daytime and night-time internal noise levels as specified in Table

4 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings" shall be achieved due to noise associated with road traffic on the B1361;

c. within the residential dwellings World Health Organisation "Guidelines for community noise" internal level of <45dBLAmax (not to be exceeded more than 10-15 times a night) shall be achieved due to noise associated with the east coast main line.

Reason:

In the interest of safeguarding the residential amenity of future occupiers of the proposed residential development.

- 14 The design and installation of any plant or equipment associated with the operation of each of the commercial units proposed in the neighbourhood centre shall be such that noise emanating from them shall not exceed Noise Rating Curve NR25 at any Octave Band Frequency when measured within any existing or proposed neighbouring residential property assuming windows open at least 50mm.

Reason:

To ensure the commercial units proposed in the neighbourhood centre do not harm the amenity of nearby residential properties.

- 15 The details of the extraction system to be used within the proposed class 3 restaurant/cafe space at the neighbourhood centre, including efflux velocities of stack emissions and any odour control measures to be implemented in the form of primary, secondary and tertiary treatments shall be submitted to and approved in advance by the Planning Authority prior to the operation of the premises for Class 3 use, and such detail shall include a timetable for the implementation of such system.

Any mechanical extract ventilation equipment used to vent the premises as so approved shall be maintained to ensure their continued satisfactory operation and any cooking processes reliant on the extract system shall cease to operate if, at any time, the extract equipment ceases to function to the satisfaction of the Planning Authority.

Reason:

To ensure the Class 3 use does not harm the amenity of nearby residential properties by cooking odours.

- 16 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.

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

4

Application No. **15/00645/PM**

Proposal Variation of condition 5 of planning permission 06/00769/FUL to allow for a single delivery to the store between the hours of 2300 and 0700.

Location **Tesco Stores Ltd
Olivebank Road
Musselburgh
East Lothian**

Applicant Tesco Stores Limited

Per Mackay Planning

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This planning application relates to the Tesco store in Musselburgh. It is located to the south of Olivebank Road and to the west of Musselburgh Town Centre.

The service yard for the store is located adjacent to the southeast corner of the store building. It is accessed along the northern section of Inveresk Road. Vehicular access to the store car park for customers is taken from Olivebank Road via a roundabout at the northwest corner of the store site.

The site of the Tesco store is located in close proximity to residential properties, including the 4 storey residential flats at the junction of Mall Avenue and the northern section of Inveresk Road (5-19 Inveresk Road), and the residential properties at the western end of the southern section of Inveresk Road.

Planning permission (Ref: 06/00769/FUL) was granted in September 2008 for the erection of the store and for a petrol filling station and associated works, subject to 27 conditions. Of these, condition 5 stipulates that:

"No service delivery vehicle or home delivery vehicle shall either access or egress the site nor be loaded or unloaded within the site outwith the hours of 07:00 to 23:00.

Reason:

To ensure that the amenity of the occupiers of nearby residential properties is safeguarded".

Planning permission is now sought through this application for a variation of condition 5 of planning permission 06/00769/FUL to allow for a single delivery to the front entrance of the store between the hours of 23:00 and 07:00.

A statement has been submitted with the application. It informs that the service access along the northern section of Inveresk Road is in close proximity to the flats at 5 - 19 Inveresk Road and therefore in granting planning permission 06/00769/FUL it was considered that condition 5 was necessary in order to protect the amenity of those properties from night time deliveries.

The applicant further informs that the restriction on deliveries before 07:00 has an adverse effect upon the ability of the store to begin dot com (internet) deliveries promptly in the morning as items have to be delivered and on shelves before picking for dot com deliveries can take place. This process can take many hours and as internet deliveries are increasingly popular from the Musselburgh store, this places a significant limitation upon the store's ability to carry out internet deliveries throughout the daytime period.

In order to overcome this issue, the applicant proposes to carry out the current 07:00 delivery at 03:00 (i.e. there would be no 07:00 delivery). However, in order to avoid any adverse impact upon residential amenity, this delivery could be carried out from the front of the store, through the store entrance or fire escape doors, thereby avoiding the use of Inveresk Road, the service access and the service yard at the rear of the store. Given that the store is open 24 hours, customer vehicles are currently using the same store access route into the car park at night that delivery vehicles delivering to the front of the store would use. Against the context of the existing noise climate, the applicant argues that the addition of a single delivery would not give rise to significant adverse impact.

A noise assessment has also been submitted by the applicant. It concludes that a single delivery could be made to the front entrance of the store between the hours of 23:00 and 07:00 without associated noise giving rise to significant adverse impact on nearby residents. It does however recommend that a formal Delivery Noise Management Plan should be adopted, to ensure that noise from delivery activities to the store entrance are reduced as far as reasonably practicable.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) or the adopted East Lothian Local Plan 2008 relevant to the determination of this application.

Six written objections to the application have been received. All of the objectors are local residents. The objections are made on the following main grounds:

* The 24 hour Tesco store has had a material and negative impact on local residents in terms of noise, disturbance and associated anti-social behaviour. The delivery entrance is less than 100 metres from homes and a nighttime delivery would result in further disturbance from delivery lorries and accompanied activities;

* The noise and activity this would generate would be extremely detrimental to everyone living here whilst they are sleeping; and

* The objector was given assurances by Tesco when the store was built that there would be no night time deliveries, due to the close proximity of the deliveries entrance to the neighbouring properties.

Any assurance that may have been given by Tesco is not a material consideration in the determination of a planning application.

Musselburgh and Inveresk Community Council recommend refusal of this planning application. They think that what Tesco have at present is more than adequate. They advise that the nearest neighbours have quite a bit of noise at this present time.

The determination of this application rests on the planning considerations of the likely additional impacts a single delivery to the front entrance of the store between the hours of 23:00 and 07:00 would have on the amenity of any neighbouring use, including neighbouring residential properties.

The Council's Environmental Protection Manager has carefully considered the applicant's noise assessment and agrees with its findings.

The Environmental Protection Manager accepts that the predicted noise levels from a single delivery event at the front entrance of the store between the hours of 23:00 and 07:00 do not exceed the maximum night time noise level considered acceptable by the World Health Organisation. He also notes that the predicted noise levels are similar to the existing typical ambient noise levels.

The Assessment also considers noise associated with delivery vehicles as they enter and leave the site, particularly at the residential properties of 5 - 19 Inveresk Road. With the exception of those properties, the Environmental Protection Manager accepts that the predicted peak noise levels associated with delivery vehicles do not exceed the maximum night time noise level considered acceptable by the World Health Organisation. Whilst it is predicted that these levels would be slightly exceeded at the residential properties of 5 - 19 Inveresk Road (by up to 3 dB), the Environmental Protection Manager advises that the resultant noise levels from a delivery vehicle entering or leaving the site would be no greater than the existing maximum night time noise level. Thus he advises that the impact of a single delivery to the front entrance of the store between the hours of 23:00 and 07:00 would be negligible.

Notwithstanding this, the Environmental Protection Manager recommends that a condition should be imposed to ensure that there should be only a single delivery to the store between the hours of 23:00 and 07:00, and that single delivery should only be to the front entrance of the store. He further recommends that prior to the commencement of any deliveries between the hours of 23:00 and 07:00, a Delivery Noise Management Plan should be submitted to and approved by the Planning Authority. Once approved, the Plan should be complied with at all times. These recommended controls can be

secured by a conditional grant of planning permission.

Subject to the imposition of the recommended controls, the proposed variation of condition 5 would not harmfully impact on the amenity of neighbouring and nearby residential properties.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in September 2015. Annex I of the Circular gives guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". Therefore, planning permission should be granted subject to the applied for variation to condition 5 and subject to all of those conditions from planning permission 06/00769/FUL, where it is intended these should apply. In this case, the conditions that should continue to apply are 4, 6, 7, 8, 11, 12 and 18.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 4 The superstore hereby approved shall have a gross floor area no greater than 8,175 square metres and a net sales floor area no greater than 4,830 square metres. Of the net sales floor area no more than 2,415 square metres shall be used for the sale of comparison goods. The superstore hereby approved shall not be subdivided to form more than 1 retail unit.

Reason:

In order to retain control over the format of retail development at the site and in the interests of safeguarding the vitality and viability of the retail function of Musselburgh Town Centre.

- 5 The operation of the store shall comply with the following requirements:

a) With the exception of a single service delivery to the front of the store (accessed via the main vehicle entrance and not Inveresk Road), no service delivery vehicle or home delivery vehicle shall either access or egress the site nor be loaded or unloaded within the site outwith the hours of 07:00 to 23:00; and

b) Notwithstanding condition 2a) above, there shall be no service delivery to the site outwith the hours of 07:00 to 23:00 unless and until a Delivery Noise Management Plan has been submitted to and approved by the Planning Authority. Once approved the Delivery Noise Management Plan shall be complied with at all times during deliveries outwith the hours of 07:00 to 23:00.

Reason:

To ensure that the amenity of the occupiers of nearby residential properties is safeguarded.

- 6 The car wash and jet wash shall only be open for trading between the hours of 08:00 to 20:00 hours.

Reason:

To ensure that the amenity of the occupiers of nearby residential properties is safeguarded.

- 7 The superstore, petrol filling station and car wash shall be designed and constructed so that noise from any associated plant and equipment shall be such that any noise emanating therefrom does not exceed noise rating curve NR15 over the frequency range 63-8000Hz when measured in any neighbouring property with the noise measurement being taken with the window open at least

50mm. Noise measurements may be taken outside noise sensitive properties on the condition that an appropriate façade transmission loss can be applied to enable internal noise rating levels to be calculated from the external noise level.

Reason:

To ensure that noise emanating from the development is such that it will not have a harmful impact on residential amenity.

- 8 Prior to any use being made of the superstore building, the service yard of it shall be enclosed on all of its boundaries by a solid acoustic barrier, including service yard access gates at least 2.5 metres in height above ground level. Details of the height, physical form and positioning of the acoustic barrier (including service yard access gates and any retaining wall to be built in association with the acoustic barrier) shall be submitted to and approved by the Planning Authority prior to the erection of it and the acoustic barrier erected shall be in accordance with the details so approved. Details for the operational opening and closing of the gates so that they can effectively serve as part of the acoustic barrier shall also be submitted to and approved by the Planning Authority prior to the erection of them and any other part of the acoustic barrier. The operational opening and closing of the gates shall thereafter accord with the details so approved.

Reason:

To ensure that noise emanating from the service yard of the building is such that it will not have a harmful impact on residential amenity and to control the appearance of the acoustic barrier and retaining wall in the interest of safeguarding the visual amenity of the area.

- 11 The recycling point shown on the proposed site plan docketed to this planning permission shall be provided prior to the superstore opening for trade.

Detailed figures on the material collected at the recycling point shall be submitted to the Council as

Waste Services Authority on a quarterly basis.

Reason:

To ensure that adequate facilities are provided to ensure compliance with the Council's policies for recycling.

- 12 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.

- 18 A Green Travel Plan to minimise private car trips and to encourage use of alternative modes of transport such as buses, cycling, walking, and the use of home deliveries shall be submitted to and approved by the Planning Authority prior to the superstore opening for trade. 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 superstore.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the superstore use.

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

5

Application No. **15/00634/PM**

Proposal Variations of Conditions 4, 7, 8, 9, 10, 11, 12, and 15 of planning permission 12/00922/PM to allow phased development works, in respect of the formation of onshore electrical transmission infrastructure between Thorntonloch and Crystal Rig II

Location **Land Between Thorntonloch
And Crystal Rig Wind Farm
Dunbar
East Lothian**

Applicant Neart Na Gaoithe Offshore Wind Ltd

Per Mainstream Renewable Power

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The site that is the subject of this planning application has an area of some 62.4 hectares and is located to the south and southeast of Dunbar. It has a generally linear shape and extends from Thorntonloch beach to the existing electrical sub-station located within the Crystal Rig II wind farm, a distance of some 12.3km.

The part of the site at Thorntonloch beach is within the Thorntonloch Coastline Area of Great Landscape Value. The southwest part of the site, adjacent to the existing electrical sub-station of the Crystal Rig II wind farm, is within the Lammermuir Hills Area of Great Landscape Value.

In October 2014 Mainstream Renewable Power Limited received consent under Section 36 of the Electricity Act 1989 for the erection of an off-shore wind farm, to be known as the Neart Na Gaoithe wind farm. It would be located some 28km northeast of Dunbar and some 32km northeast of North Berwick. Development of the off-shore wind farm has not yet commenced.

In June 2013 planning permission (Ref: 12/00922/PM) was granted for the formation of onshore electrical transmission infrastructure between Thorntonloch beach and the existing electrical sub-station located within the Crystal Rig II wind farm, over a distance of some 12.3km. That site is the same as the site that is the subject of this planning application. The onshore electrical transmission infrastructure is required to enable the proposed Neart Na Gaoithe wind farm to connect into the national electricity grid. The approved infrastructure includes on-shore cables, which would run underground from Thorntonloch beach to Crystal Rig, and an electrical sub-station, which would be positioned adjacent to the existing substation located within the Crystal Rig II wind farm.

Planning permission 12/00922/PM was granted subject to 15 conditions. Of these, conditions 4, 7, 8, 9, 10 11, 12 and 15 stipulate that:

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

The CEMP shall, unless otherwise agreed with the Planning Authority in writing, include the following details:

(a) Construction Method Statements, which shall include details of the crossing methods to be utilised along the cable route including, if appropriate, the placing in ducts of any cables laid under public roads. The Construction Method Statements shall also recommend mitigation measures to control noise and shall include hours of operation for construction work;

(b) Pollution prevention monitoring and mitigation measures for all construction activities;

(c) Reinstatement following the completion of the construction of the cable route, including the reinstatement of agricultural land, drainage systems and landscape resources;

(d) Dust and air quality management plan;

(e) Soil resource management plan, including a map showing locations of stockpiles of excavated materials, details of use and/or disposal of unsuitable subsoil, details of the management and mitigation of soil resources in accordance with best practice;

(f) Construction noise and vibration management plan, including identification of access routes, locations of laydown areas, equipment details, details of operation, scheduling of works, mitigation measures and a scheme for noise monitoring in the event of complaints;

(g) Habitat resource management plan for the cable route and substation, including details of tree/hedgerow removals and replacements, and the use of protective fencing and ground protection (in accordance with BS5837_2012 "Trees in relation to design, demolition and construction ~ Recommendations"), tree root protection methods, and other appropriate mitigation measures;

(h) Peat Management Plan; and

(i) The installation approach (i.e. horizontal directional drilling or open cut trenching) for the cable landfall area at Thorntonloch beach.

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

Reason:

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

7 Prior to the commencement of the development hereby approved, a Site Waste Management Plan (SWMP) shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA. The SWMP shall, unless otherwise agreed with the Planning Authority in writing, include the following details:

- (a) Details of the waste management measures to be implemented during the construction phase, including the steps to be taken to maximise the quantity of waste to be re-used and recycled;
- (b) The types and quantities of waste expected to arise during the construction phase of the Development;
- (c) The identification of the contractors to be used to ensure the waste is correctly recycled or disposed of responsibly and legally;
- (d) Information on how the quantity of waste will be measured; and
- (e) Identification of responsible personnel.

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

Reason:

In order to minimise waste during construction and to ensure that it is properly managed.

8 Prior to the commencement of the development hereby approved the following details, including proposed timescales, shall be submitted to and approved in writing by the Planning Authority, after consultation with SNH:

- (a) The siting, design, external appearance and dimensions of the substation and any other permanent above-ground features, and a schedule of materials and finishes; and
- (b) The proposed levels of any earthworks and the design of permanent fencing and boundary walls.

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

Reason:

In the interests of the landscape character and appearance of the Lammermuir Hills Area of Great Landscape Value.

9 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.

10 Prior to the commencement of the development hereby approved, a substation drainage strategy shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA. Thereafter, the development shall be carried out in accordance with the approved drainage strategy unless otherwise agreed with the Planning Authority in writing.

Reason:

To ensure that a suitable drainage strategy is implemented.

11 Prior to the commencement of the development hereby approved, a survey of European Protected Species (EPS) will be carried out within the Development site. Based on the findings of these surveys, if required, a Protected Species Management Plan shall be submitted to and approved in writing by the Planning Authority after consultation with SNH. The Protected Species Management Plan shall include mitigation measures designed to safeguard any EPS within the application site. During the construction phase of the development regular monitoring of the mitigation measures in the Protected Species Management Plan shall be carried out by the Company, or its representative.

The development shall thereafter be carried out in accordance with the approved Protected Species Management Plan unless otherwise agreed with the Planning Authority in writing.

Reason:

To minimise disturbance to protected species during the construction phase of the development.

12 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.

15 Prior to commencement of the development hereby approved a detailed method statement for the cables crossing under the A1 trunk road should be submitted to and approved by the Planning Authority following consultation with Transport Scotland.

The development shall thereafter proceed in accordance with the details so approved.

Reason:

In the interests of road safety.

Planning permission is now sought through this application for a variation of conditions 4, 7, 8, 9, 10, 11, 12 and 15 of planning permission 12/00922/PM, in order to allow phased development works in respect of the proposed onshore electrical transmission infrastructure.

A statement has been submitted with the application. It informs that subsequent to securing its offshore consent, the applicant was awarded a 15 year Contract for Difference, the only offshore wind farm off Scotland's coast, and one of only two in the UK to be awarded such a Contract. With offshore wind a key element of the Scottish Government's energy policy and strategy, the applicant advises that the award of the Contract for Difference is acknowledgement of the crucial role that Neart na Gaoithe offshore wind farm will perform in helping to secure energy supply for both Scotland and the UK.

The applicant advises that in order to deliver an already challenging development programme required by the Contract for Difference award, development works must commence in early 2016. The applicant recognises that a series of conditions attached to planning permission 12/00922/PM have to be discharged by East Lothian Council prior to the commencement of development. A number of these conditions require extensive surveys to be carried out, which requires access to the relevant land. The applicant informs that a significant extent of the land involved has already been surveyed and in other areas the applicant has reached agreement with landowners to undertake surveys in the near future.

The applicant has determined that it was not appropriate to pursue access to the remaining area for the purpose of surveys as this area was the subject of an application for compulsory purchase powers. Although on 26 June 2015 the Scottish Ministers confirmed the compulsory purchase order in respect of this area, the applicant informs that this will not ensure access for surveys in a timeframe that is consistent with the current programme for discharging the conditions. In the absence of access to this remaining area for the purpose of undertaking survey work required by the conditions, the applicant is now proposing a phased approach to onshore development works in order to meet what they say is a challenging development and construction programme.

The proposed phased approach focuses upon delineation of the site into the following three areas:

- * Area S- within which the proposed substation is located, where the applicant advises that the commencement of development works in early 2016 is a priority and where surveys have commenced;

- * Area A- the majority of the proposed cable route, which the applicant informs is likely to form part of an initial phase of development works and where surveys have commenced; and

- * Area B- the remaining part of the cable route, which the applicant informs is likely to form part of a second phase of development works and where surveys have not yet commenced.

A submitted site plan shows the extent of those three areas of land.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) or the adopted East Lothian Local Plan 2008 relevant to the determination of this application.

One letter of representation has been received. It is written on behalf of Fred Olsen Renewables Limited. They have an interest in the proposals by virtue of the fact that: a) its subsidiary, Crystal Rig Wind Farm Limited, operates Crystal Rig Wind Farm Phase I and holds a lease over part of the land required for the approved infrastructure works; b) its subsidiary, Crystal Rig II Limited, operates Crystal Rig Wind Farm Phase II and holds a lease over part of the land required for the approved infrastructure works; and c) option agreement held by Fred Olsen Renewables Limited in respect of proposals for Phases III and IV of Crystal Rig Wind Farm. The representation sets out what Fred Olsen Renewables Limited consider to be the potential implications of the approved infrastructure works on their existing operations and proposed further developments at Crystal Rig Wind Farm. They comment that the uncertainty over the likely timing of the approved infrastructure works means that it is very difficult for them to assess the potential cumulative impacts of the proposed works. Fred Olsen Renewables Limited remain willing to engage with the applicant with a view to identifying solutions that would both avoid adverse impacts on their existing and proposed operations and would facilitate the approved infrastructure works. A copy of this letter has been forwarded onto the applicant for their information.

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

Planning permission has already been granted for the proposed infrastructure works, and there can therefore be no objection to those proposed works. It is for the applicant and Fred Olsen Renewables Limited to engage together to ensure that the approved infrastructure works can be implemented without having an adverse impact on Crystal Rig Wind Farm.

The determination of this application rests on the planning considerations of whether or not the purpose and integrity of conditions 4, 7, 8, 9, 10, 11, 12 and 15 would be maintained by the proposed variations of them.

The proposed variation would not change the scope of information to be provided in respect of conditions 4, 7, 8, 9, 10, 11, 12 and 15.

The proposed variation of conditions 4, 7, 9, 11, 12 and 15 would allow for the potential phased submission of the details required in respect of each condition, and thereafter the associated phased commencement of development. The proposal would enable relevant details to be submitted to and approved by the Council in respect of Areas A and S, with development of those areas commencing thereafter, and potentially prior to such details having been submitted and approved by the Council in respect of Area B. The proposed variation would however still ensure that development could not commence within Area B without such details as required by each condition having been submitted to and approved by the Council in relation to Area B.

Conditions 8 and 10 relate to the approved substation. The proposed variation of those conditions would ensure that there could be no development of Area S (within which the proposed substation is located) until those details required in respect of Area S have been submitted to and approved by the Planning Authority.

In all of this, the proposed variation of conditions 4, 7, 8, 9, 10, 11, 12 and 15 would maintain the purpose and integrity of those conditions.

The Council's Environmental Protection Manager, the Council's Archaeology/ Heritage Officer, the Council's Landscape Project Officer, Network Rail, and the Scottish Environment Protection Agency all raise no objection to the proposed variation of conditions 4, 7, 8, 9, 10, 11, 12 and 15.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in September 2015. Annex I of the Circular gives guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". Therefore, planning permission should be granted subject to the applied for variation to conditions 4, 7, 8, 9, 10, 11, 12 and 15 and subject to all of those conditions from planning permission 12/00922/PM, where it is intended these should apply. In this case, the conditions that should continue to apply are 1, 3, 5, 6, 13 and 14.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

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

Reason:

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

- 3 Prior to the commencement of the development hereby approved, an appropriately experienced and qualified Ecological Clerk of Works (ECoW) shall be appointed following consultation with the Planning Authority and SNH. An ECoW appointed in accordance with this condition shall be in post during appropriate stages of the construction phase of the development, as agreed in writing with the Planning Authority. The ECoW's scope of work shall include monitoring compliance with the mitigation measures within the Environmental Statement and the conditions of this planning permission.

Reason:

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

- 4 (l) Prior to the commencement of the development hereby approved within Area A and Area S, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA, SNH and, in respect of issues relating to the inter-tidal area, Marine Scotland.

The CEMP shall, unless otherwise agreed with the Planning Authority in writing, include the following details as they relate to Area A and Area S:

- (a) Construction Method Statements, which shall include details of the crossing methods to be utilised along the cable route including, if appropriate, the placing in ducts of any cables laid under public roads. The Construction Method Statements shall also recommend mitigation measures to

control noise and shall include hours of operation for construction work;

- (b) Pollution prevention monitoring and mitigation measures for all construction activities;
 - (c) Reinstatement following the completion of the construction of the cable route, including the reinstatement of agricultural land, drainage systems and landscape resources;
 - (d) Dust and air quality management plan;
 - (e) Soil resource management plan, including a map showing locations of stockpiles of excavated materials, details of use and/or disposal of unsuitable subsoil, details of the management and mitigation of soil resources in accordance with best practice;
 - (f) Construction noise and vibration management plan, including identification of access routes, locations of laydown areas, equipment details, details of operation, scheduling or works, mitigation measures and a scheme for noise monitoring in the event of complaints;
 - (g) Habitat resource management plan for the cable route and substation, including details of tree/hedgerow removals and replacements, and the use of protective fencing and ground protection (in accordance with BS5837_2012 "Trees in relation to design, demolition and construction ~ Recommendations"), tree root protection methods, and other appropriate mitigation measures;
 - (h) Peat Management Plan; and
- (i) The installation approach (i.e. horizontal directional drilling or open cut trenching) for the cable landfall area at Thorntonloch beach.

(II) Thereafter, prior to the commencement of the development hereby approved within Area B, an Addendum to the CEMP which provides details specific to Area B which have not previously been submitted in (I), shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA, SNH and, in respect of issues relating to the inter-tidal area, Marine Scotland. The CEMP shall, unless otherwise approved by the Planning Authority in writing, include the details listed at Condition 4 (I) as they relate specifically to Area B; and

(III) The development shall thereafter be carried out in accordance with the approved CEMP (including Addendum) unless otherwise agreed with the Planning Authority in writing. For the avoidance of doubt, no development shall take place within Areas A, B or S, without details (a)-(i) as they relate to such specific area(s) having first been approved in accordance with the procedures described at (I).

Reason:

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

- 5 Prior to the commencement of the development hereby approved an Access Management Plan (AMP) shall be submitted to and approved in writing by the Planning Authority after consultation with SNH. The Access Management Plan shall detail proposals for maintaining and managing public access across the application site during the period of the development without compromising applicable health and safety requirements.

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

Reason:

To minimise the impact the development on public access across the application site.

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

- a) details of identified routes to and from the construction site;
- b) details of construction compounds and details of construction access points;
- c) specific arrangements relating to the transportation of abnormal loads and procedures to ensure pedestrian safety adjacent to working areas;

- d) arrangements for minimising disruption to road users and pedestrians in those locations where open cut trenching crosses a public or private road;
- e) details of any off-site mitigation works;
- f) co-ordination of traffic movements with other major transport users;
- g) arrangements for the cleaning of wheels and chassis of construction traffic to prevent material being carried onto the public road;
- h) details of temporary construction car parks associated with the construction compounds;
- i) details of trees to be protected from construction traffic in accordance with BS5837:2012;
- j) a condition dilapidation survey, the scope of which will be agreed in advance with East Lothian Council; and
- k) A Green Travel Plan to include measures to minimise dependency on the private car to and from the construction compounds.

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

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

Reason:
In the interests of road safety.

- 7 (i) Prior to the commencement of the development hereby approved within Area A and Area S, a Site Waste Management Plan (SWMP) shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA. The SWMP shall, unless otherwise agreed with the Planning Authority in writing, include the following details as they relate to Area A and Area S:
 - (a) Details of the waste management measures to be implemented during the construction phase, including the steps to be taken to maximise the quantity of waste to be re-used and recycled;
 - (b) The types and quantities of waste expected to arise during the construction phase of the Development;
 - (c) The identification of the contractors to be used to ensure the waste is correctly recycled or disposed of responsibly and legally;
 - (d) Information on how the quantity of waste will be measured; and
 - (e) Identification of responsible personnel.
- (ii) Thereafter, prior to the commencement of the development hereby approved within Area B, an Addendum to the SWMP which provides details specific to Area B which have not previously been submitted in (i), shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA. The Addendum shall provide the details referenced in (i) as they relate to Area B; and
- (iii) The development shall be carried out in accordance with the approved SWMP (including Addendum) unless otherwise agreed with the Planning Authority in writing. For the avoidance of doubt, no development shall take place within Areas A, B or S, without details (a)-(e) as they relate to such specific area(s) having first been approved in accordance with the procedures described at (i).

Reason:
In order to minimise waste during construction and to ensure that it is properly managed.

- 8 Prior to the commencement of the development hereby approved within Area S, the following details, including proposed timescales, shall be submitted to and approved in writing by the

Planning Authority, after consultation with SNH:

- (a) The siting, design, external appearance and dimensions of the substation and any other permanent above-ground features, and a schedule of materials and finishes; and
- (b) The proposed levels of any earthworks and the design of permanent fencing and boundary walls.

The development of Area S shall thereafter be carried out in accordance with the approved details unless otherwise agreed with the Planning Authority in writing.

Reason:

In the interests of the landscape character and appearance of the Lammermuir Hills Area of Great Landscape Value.

- 9 (i) No development shall take place within Area A and Area S until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping as it relates to Area A and Area S. 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.

(ii) Thereafter, prior to the commencement of the development hereby approved within Area B, an Addendum to the scheme of landscaping which provides details specific to Area B which have not previously been submitted in (i), shall be submitted to and approved in writing by the Planning Authority. The Addendum shall provide the details referenced in (i) as they relate to Area B.

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; and

(iii) For the avoidance of doubt, no development shall take place within Areas A, B or S, without a scheme of landscaping in respect of such area(s) having first been approved in accordance with the procedures described at (i).

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.

- 10 Prior to the commencement of the development hereby approved within Area S, a substation drainage strategy shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA. Thereafter, the development shall be carried out in accordance with the approved drainage strategy unless otherwise agreed with the Planning Authority in writing.

Reason:

To ensure that a suitable drainage strategy is implemented.

- 11 (i) Prior to the commencement of the development hereby approved within Area A and Area S, a survey of European Protected Species (EPS) will be carried out within Area A and Area S. Based on the findings of these surveys, if required, a Protected Species Management Plan shall be submitted to and approved in writing by the Planning Authority after consultation with SNH. The Protected Species Management Plan shall include mitigation measures designed to safeguard any EPS within Area A and Area S. During the construction phase of the development regular monitoring of the mitigation measures (where required) in the Protected Species Management Plan shall be carried out by the Company, or its representative.

(ii) Thereafter, prior to the commencement of the development hereby approved within Area B, a survey of EPS will be carried out within that Area. Based on the findings of these surveys, if required, a Protected Species Management Plan which provides details specific to Area B which have not previously been submitted in (i), shall be submitted to and approved in writing by the Planning Authority after consultation with SNH. The Protected Species Management Plan shall include mitigation measures designed to safeguard any EPS within Area B. During the construction phase of the development regular monitoring of the mitigation measures (where required) in the Protected Species Management Plan shall be carried out by the Company, or its representative; and

(iii) The development shall thereafter be carried out in accordance with the approved Protected Species Management Plan (s) unless otherwise agreed with the Planning Authority in writing. For the avoidance of doubt, no development shall take place within Areas A, B or S, without such surveys being undertaken and (where required) such mitigation being in place within such area(s).

Reason:

To minimise disturbance to protected species during the construction phase of the development.

12 (i) No development shall take place within Area A and Area S until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work within Area A and Area S, in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

(ii) Thereafter, no development shall take place within Area B until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work within Area B, in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority; and

(iii) For the avoidance of doubt, no development shall take place within Areas A, B or S, without the implementation of an approved programme of archaeological work within such area(s).

Reason:

To facilitate an acceptable archaeological investigation of the site.

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

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

(i) The extent of substation and cable infrastructure to be removed and details of site restoration;

(ii) Management and timing of works;

(iii) Environmental management provisions; and

(iv) A traffic management plan to address any traffic impact issues during the decommissioning period.

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

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

(i) The extent of substation and cable infrastructure to be removed and details of site

restoration;

(ii) Management and timing of works;

(iii) Environmental management provisions; and

(iv) A traffic management plan to address any traffic impact issues during the decommissioning period.

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

Reason:

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

- 14 Prior to the commencement of the development hereby approved, proposals for the realignment of existing access tracks shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be carried out in accordance with approved details unless otherwise agreed with the Planning Authority in writing.

Reason:

To minimise the impact the development on public access within and across the application site.

- 15 Prior to commencement of the development hereby approved within Area A, a detailed method statement for the cables crossing under the A1 trunk road should be submitted to and approved by the Planning Authority following consultation with Transport Scotland.

The development shall thereafter proceed in accordance with the details so approved.

Reason:

In the interests of road safety.

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