

**PLANNING COMMITTEE**

**1 DECEMBER 2015**

**PUBLIC DOCUMENT PACK**





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

**TUESDAY 3 NOVEMBER 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 S Currie  
Councillor T Day  
Councillor A Forrest  
Councillor J Gillies  
Councillor J Goodfellow  
Councillor W Innes  
Councillor P MacKenzie  
Councillor K McLeod  
Councillor J McNeil  
Councillor T Trotter  
Councillor J Williamson

**Other Members Present:**

Councillor F McAllister

**Council Officials Present:**

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

**Clerk:**

Ms A Smith

**Visitors Present:**

Item 2 – Mr B Salter  
Item 3 – Mrs E Cargill, Mr K Murray  
Item 4 – Mr S Mackay, Mrs R McHattie

**Apologies:**

Councillor D Grant  
Councillor J McMillan

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 6 OCTOBER 2015**

Councillor Goodfellow requested that the relevant Local Plan policies be specified in the reasons for refusal for the Westgate, North Berwick application. This was agreed. Subject to this amendment the minutes of the meeting of the Planning Committee held on 6 October 2015 were approved.

**2. PLANNING APPLICATION NO.15/00670/PPM: 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 AT TANTALLON ROAD, NORTH BERWICK**

A report was submitted in relation to Planning Application No. 15/00670/PPM. Iain McFarlane, Service Manager for Planning presented the report, summarising the key points. The report recommendation was to grant consent.

Mr McFarlane responded to questions from Councillor Berry on a number of issues including green belt objectives/designations, existing facilities and services, particularly in relation to travel, scale and character requirements, access to the site off of Heugh Road and the number of business units proposed. He advised that if this in principle application was approved, many of the issues raised would be looked at during the detailed application stage.

Responding to Councillor Day, Mr McFarlane confirmed that the cumulative impact was taken into account. North Berwick was seeing growth as a result of Mains Farm, and other developments, allocated through the Local Plan. Regarding SESplan and the strategic development growth corridor, he advised that most strategic developments under the new Local Development Plan (LDP) should be allocated within that corridor but developments elsewhere were possible in terms of SESplan Policy 7 and, if necessary, to ensure a 5 year housing land supply.

Mr McFarlane and Marshall Greenshields, Transportation Planning Officer, responded to questions from Councillor Goodfellow regarding safe routes to school.

In response to questions from Councillor Currie, Mr McFarlane advised that the Main Issues Report (MIR) had limited status by its nature as a consultation document. The nature and status could only be given greater weight if, as part of the settled view of the Council, a site became part of a proposed LDP. This site had been assessed in relation to SESplan Policy 7 as a suitable site. Responding to further questions about the provision of affordable housing and the process under delegated powers, Mr McFarlane stated that the report reflected the policy on affordable housing; adding that Policy H4 of the adopted Local Plan allowed for those different mechanisms of delivery of housing service. Morag Ferguson, Legal and Procurement Service

Manager, advised that by agreeing to the recommendations set out in the report the Committee was delegating authority for these negotiations to the Housing service. If Members wished to know about any changes agreed during this process then it would be Cabinet, not the Planning Committee that a report would come to.

Bob Salter of Geddes Consulting, agent for the applicant, made reference to statements in the report regarding the shortfall in housing land supply and lack of economic development facilities in North Berwick. The business units would be provided at 2 locations within the site; 9,000 sq ft at the south and 3,000 sq ft at the east. In terms of housing there would be 125 homes, 31 allocated for affordable housing. The layout proposed would protect the view of North Berwick Law. Community allotments would be provided. The application complied with SESplan Policy 7; it met the Council's housing land supply requirements and the site had also been considered as part of the local development plan process.

Responding to questions, Mr Salter clarified the pedestrian routes within the site, play area provision and maintenance/factoring arrangements for the public open space.

Local Member Councillor Day made reference to previous applications for North Berwick, the appeals process and the planning system in general. Tantallon Road, in the community's view, was the preferred site for housing but had been superseded by the Ferrygate development being granted on appeal. North Berwick was not in the A1/East Coast Main Line growth corridor so the application was contrary to Scottish Planning Policy for sustainable development. Towns across East Lothian were struggling to cope in terms of infrastructure. He drew attention to several current infrastructure issues in North Berwick. These large housing developments were creating unbalanced and unsustainable communities. He would not be supporting the application.

Local Member Councillor Berry understood that each application had to be considered on its merits but questioned at what stage the cumulative effect was taken into account. The town's infrastructure was not adequate. Communities across East Lothian were being unbalanced. More sustainable communities were needed; industrial space was being replaced by housing developments. Tantallon Road was a sensible location but in light of recent approved developments, this development would landlock the area available for business land. If, instead of housing, the proposal had been for 12,000 sq ft of office space with 9,000 sq ft of light industrial use, he would have been inclined to support – he was considering moving an amendment to this effect.

Local Member Councillor Goodfellow noted that the applicant had followed the correct procedure and that the proposal would provide affordable housing and some business units. If this had been the only application he would have been persuaded to support it. However since negotiations had commenced another developer, against the wishes of North Berwick residents and this Committee, had gone to Scottish Ministers and had been granted planning permission. He had concerns about lack of direct access to local bus stops from the site and a safe route to school.

Councillor Currie expressed concerns about the application. He made reference to the MIR, questioning the status accorded to sites. He reiterated his earlier concerns about the possibility, under delegated powers, for alteration of the provision in respect of affordable housing; any changes should come back to Committee. On balance, he would not be supporting the application; it was premature.

Councillor Innes remarked that on this occasion he did not support the views of the local members. They had acknowledged that this was a sensible site, a preferred site and that additional business facilities were needed in the town. He appreciated that Members were unhappy with the decision taken by Scottish Ministers but stressed that the Committee had to consider each application on its own merit and make, in its opinion, the correct decision. He would be supporting the report recommendation.

Provost Broun-Lindsay understood the views expressed by Councillors Day and Berry and their concerns about the cumulative impact on the town as a result of approval by Scottish Ministers of the Ferrygate development. The Committee however had to judge each application on its merits. This application met all the relevant criteria. If the Committee accepted the impassioned arguments and went against the proposal the applicant would in effect be penalised for acting correctly. He supported the recommendation in the report; there was no option to do otherwise.

The Convener understood the issues local members had about the development and their concerns about the town's infrastructure. He stressed that the Council had a duty to deliver an effective housing land supply; the Interim Planning Guidance had been produced to provide some control for applications contrary to the LDP. Members should note that there were no valid planning reasons for refusal. He would be supporting the report recommendation.

Councillor Berry requested a ruling on his potential amendment. Mr McFarlane advised that the amendment would be a significant change to the proposal. The principle of development was in respect of the number of houses and business units, the amendment would change the balance of the application to a state not competent. Mrs Ferguson added that if the increase in business land resulted in a decrease in housing units then a recalculation of the education contribution would be required. Councillor Berry accepted the ruling and withdrew his amendment.

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

For: 11  
Against: 5  
Abstentions: 0

### **Decision**

The Committee agreed to grant planning permission in principle 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.

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.

**3. PLANNING APPLICATION NO.15/00473/PPM: 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 AT DOLPHINGSTONE FARM, LAND ADJACENT TO B1361, EDINBURGH ROAD, PRESTONPANS**

A report was submitted in relation to Planning Application No. 15/00473/PPM. Daryth Irving, Senior Planner, drew attention to comments from the Scottish Environment Protection Agency (SEPA) detailed in the report. He informed Members that a response had been received today from SEPA stating their intention to object to the application and also saying it was imperative that the necessary assessment be undertaken prior to development of a cemetery. He indicated that this had not been foreseen; it had been expected that the Risk Assessment Report issued to SEPA would have resolved matters. Given these circumstances Members may wish to continue this application.

Members debated the situation. Mr Irving clarified that SEPA were objecting to the principle of a cemetery on site; their objection concerned the impact of such a use on

the groundwater. Mr McFarlane stated it was a legislative requirement for SEPA to be consulted in respect of any cemetery use. He advised that if Members were inclined to determine the application today, and grant approval, then it would be imperative to state in a condition that no development was carried out unless and until the requirements of SEPA were met; however this was not a course of action recommended as it could undermine a grant of planning permission. He added that the most recent Scottish Government circular on Notifications to Ministers stated that it was only where SEPA objected to an application on flooding grounds that, if such an application was approved by a local authority, there was a requirement to inform Scottish Ministers.

The Convener asked Members to vote on whether the application should be determined at this meeting or continued:

Determined: 10

Continued: 6

The application would therefore be determined at this meeting.

Mr Irving then presented the report, summarising the key points. The report recommendation was to grant consent. Members raised several queries.

Mr McFarlane responded to questions from Councillor MacKenzie regarding definition and form of a robust boundary and the sustainable nature of the development, as regards its proximity to Wallyford as opposed to Prestonpans. He confirmed that the site had robust boundaries and would not contribute to coalescence.

Responding to Councillor Berry's queries regarding subsidence risks, Mr Irving referred to the responses from the statutory consultees, Network Rail and the Coal Authority. He added that the application was informed by the Coal Authority Risk Assessment report which included assessment of past mine workings. Mr McFarlane drew attention to recommended condition 11.

Grant Talac, Transportation Planning Officer, responded to questions from Councillor Caldwell about the cumulative impact on the road network westwards of the proposed development. Mr McFarlane made reference to an ongoing Roads Services project regarding traffic movements in that wider area.

Mr Irving responded to Councillor Goodfellow's queries about play area provision and safe routes to school. Mr McFarlane gave details of the density figures in comparison to the earlier North Berwick application as requested.

Elaine Cargill, neighbouring resident, spoke against the application. Prestonpans was a good sized community in an ideal location but was in danger of losing its identity. She drew attention to a number of infrastructure issues. She highlighted several environmental concerns. The B1361 flooded regularly, the farmland to be utilised for the development currently acted as natural drainage. It was also a very busy road, which would become even busier and more dangerous. She urged Members to keep this last section of green belt between Prestonpans and Musselburgh.

Kieran Murray, also a neighbouring resident, spoke against the application. He expressed concerns about the Planning Authority's proposal for connecting the SUDS pond which would go across his shared driveway. He also had concerns about

the town's infrastructure, particularly in relation to the GP practice, which was currently full, and also as regards St Gabriel's RC Primary School.

Local Member Councillor MacKenzie drew attention to planning policies and report content in relation to sustainable development and building within the Green Belt. He made reference to consideration of robust boundaries and coalescence of settlements. This proposed development was a fatal undermining of the validity of Prestonpans; it was not a valid extension of the town. He noted that the proposed development would be closer to some facilities in Wallyford rather than Prestonpans; he questioned whether going to the next community to commute or shop was sustainable. The value of East Lothian was its semi rural character; the towns in the county needed protected. He would not be supporting this application.

Local Member Councillor Brown welcomed the mixed development use, especially employment land use. He did however have concerns about the issues raised in relation to the proposed cemetery.

Local Member Councillor Innes remarked that Members had to consider what benefits a development would bring to the community, taking into account the existing community as well as the needs of the future community. Prestonpans needed the affordable housing units that would be provided. The economic development opportunities would also be beneficial. The cemetery would be a community benefit as well and this particular provision was urgently required. He would be supported this application, taking into account all those benefits.

Councillor Currie voiced concerns about the cumulative impact. He had particular concerns about traffic issues, citing several examples. The cemetery should be considered as part of the Council's burial strategy, not in isolation within a planning application. A significant retail space would be created opposite an important golf course, which would change the nature of this historic course. In relation to, and in addition to, traffic concerns this development would join up the Prestonpans, Wallyford and Musselburgh communities. He would not be supporting the application.

Councillor Goodfellow stated that he had been persuaded by Councillor Innes that the advantages outweighed the disadvantages. He reiterated his earlier points about safe routes to school. Mr McFarlane advised that recommended condition 7 was worded on the basis of the requirements of Roads Services. Responding to further queries, Mr Talac gave a detailed explanation regarding the proposed footpaths.

The Convener noted the views from Members that communities were at capacity but stressed the Council's requirements in relation to allocating sites for development, making reference to the LDP and the Interim Planning Guidance. He would be supporting the recommendation to grant planning permission.

He moved to the vote on the report recommendation (to grant consent) subject to the insertion of a condition, as stipulated by Mr McFarlane, stating that 'No development shall commence unless and until it has been demonstrated to the satisfaction of SEPA that the cemetery use hereby approved would have no unacceptable adverse impacts on the groundwater of the area.'

For: 11  
Against: 5  
Abstentions: 0

## Decision

The Committee agreed to grant planning permission in principle 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 55dBLAeq,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.

- 17 No development shall commence unless and until it has been demonstrated to the satisfaction of the Scottish Environmental Protection Agency that the cemetery use hereby approved would have no unacceptable adverse impacts on the groundwater of the area.

Reason:

In the interests of the water environment.

*Sederunt – Provost Broun-Lindsay left the Chamber*

**4. PLANNING APPLICATION NO.15/00645/PM: 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 AT TESCO STORES LTD, OLIVEBANK ROAD, MUSSELBURGH**

A report was submitted in relation to Planning Application No. 15/00645/PM. Keith Dingwall, Principal Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Mr Dingwall responded to questions from Members. He gave details of the variation of condition application in respect of the North Berwick Tesco store earlier this year, clarifying the differences between the 2 applications. He also provided further details in relation to delivery restrictions and access to the site.

Scott Mackay of Mackay Planning, agent for the applicant, informed Members that the variation to condition 5 had been requested to enable the dot.com deliveries to be dealt with promptly in the morning. The proposal was for the current 7am delivery to be moved to 3am but utilising the customer access through the car park, thereby avoiding Inveresk Road and the adjoining service access. A noise assessment had been carried out which indicated this was a suitable proposal.

Responding to questions, Mr Mackay clarified the differences between the delivery points for this store and the North Berwick store. He provided further details of the intended 3am delivery route and the difference in loading/unloading at the front of the store compared to the service yard at the back. He also provided details in relation to the noise assessment.

Ruth McHattie, neighbouring resident, spoke against the application. Her home looked onto the Tesco store car park; there was constant noise. Lorries arrived prior to delivery times and sat with their engines running. Neighbours had met with the store manager and had been told that HGV deliveries would be to the back yard; there was no acoustic barrier at the front, this needed clarified. Replacing the 7am delivery with a 3am delivery would have a major impact on residents.

Fraser McAllister, speaking as a neighbouring resident and not as a local member, commented against the application. He gave several examples of the constant noise neighbours had to endure from the Tesco store and also the nearby health centre. Residents could only get peace at night; a delivery at 3am was not acceptable. He also referred to the meeting with the store manager and assurances given regarding these new proposed deliveries. This was an unnecessary, unreasonable application.

Local Member Councillor Caldwell sympathised with the residents but felt there were no planning grounds for refusal. The noise issue was really the unloading of the delivery vehicle. He had no issues with delivery vehicles driving up Inveresk Road. It would have been preferable for the delivery to be taken round the back of the store. There may however be measures that could be considered in relation to the delivery vehicles as mentioned earlier. He would prefer a similar condition imposed in line with the North Berwick Tesco store, where approval for the variation to the condition was for a temporary period to monitor the situation.

Local Member Councillor Currie remarked that the issue was one of reasonableness. The ideal scenario would be for the delivery to go round the back of the store. He felt that the best way forward would be to grant approval for a time limited period to enable the situation to be assessed.

Local Member Councillor Forrest commented that he had visited the store at 3am and highlighted potential noise issues from delivery vehicles unloading at the front of the store. He did not support the application; he felt that the current arrangements were satisfactory.

Councillor Williamson stated that he was not convinced that a 3am delivery would not have an adverse impact on residents. He would have preferred the variation to be to an hour earlier, to allow a delivery at 6am, as approved for the North Berwick Tesco store. He would however consider accepting the proposed variation if this was for a time limited period to allow the situation to be monitored.

The Convener, noting all the comments from Members, proposed an amendment that approval be granted for a period of 12 months so that the impact on local residents could be assessed. This was seconded by Councillor Day.

The Convener then moved to the vote on the report recommendation (to grant consent), as amended, subject to the rewording of condition 5 to be agreed between the Convener, local members and officers:

For: 10  
Against: 5  
Abstentions: 0

### **Decision**

The Committee agreed to grant planning permission 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) Until the 06 November 2016:
    - i) 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
    - ii) Notwithstanding condition 5ai) 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.
  - b) After the 06 November 2016, no service delivery vehicle or home delivery vehicle shall either access or egress the site nor shall 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.

- 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 turving 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.

**5. PLANNING APPLICATION NO.15/00634/PM: 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 AT LAND BETWEEN THORNTONLOCH AND CRYSTAL RIG WIND FARM DUNBAR**

A report was submitted in relation to Planning Application No. 15/00634/PM. Mr Dingwall presented the report, summarising the key points. The report recommendation was to grant consent.

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

For: 15

Against: 0

Abstentions: 0

**Decision**

The Committee agreed to grant planning permission 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 (I) 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.

DRAFT

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 1 December 2015  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

**2**

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Application No. **15/00581/PPM**

Proposal Planning Permission in Principle for residential development with associated infrastructure, landscaping and engineering works.

Location **Dovecot Farm  
Haddington  
East Lothian**

Applicant Hallam Land Management

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 for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 14/00021/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 22 people attended the pre-application public exhibition, which was held at the Maitlandfield House Hotel, Haddington on 21 January 2015, 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 southwest of Haddington. It is some 4.2 hectares in area and is roughly rectangular in shape. 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 and is not allocated for housing development.

The site is bounded to the east by agricultural land which has planning permission for residential development and site works are underway. Planning permission in principle 13/00071/PPM was sought in January 2013 for a development of 113 residential units on this neighbouring agricultural land. An appeal (Ref: PPA-210-2037) was subsequently made to the Scottish Ministers against the failure of the Council to determine the application within the prescribed period of 4 months. In March 2014, following the conclusion of a legal agreement to secure education and affordable housing contributions, the appeal was allowed and planning permission in principle 13/00071/PPM was granted. In July 2015 approval of matters specified in conditions of planning permission in principle 13/00071/PPM (ref: 14/00731/AMM) was granted for the erection of 109 houses, 4 flats and associated works on that site and for internal access roads, a parking court, landscaped open space, two play areas and structural planting.

To the south of the site are areas of mature woodland and fields. To the west of the site is agricultural land.

To the north of the site is the A6093 Pencaitland Road and 3 residential properties, beyond which is agricultural land which forms part of a larger area of land allocated by Proposal H3 (Letham Mains) of the adopted East Lothian Local Plan 2008 for a mixed use development of 750 houses, social and community facilities and associated infrastructure.

In July 2013 planning permission (Ref: 13/00519/PM) was sought for the erection of 385 houses and 48 flats on the western part of that allocated housing site. In January 2014 planning permission (Ref: 14/0089/PM) was sought for the erection of 257 houses and 119 flats on the eastern part of that allocated housing site. In July 2014 planning permission (Ref: 14/00534/PCL) was sought for the erection of a primary school on the central part of that allocated housing site. At their meeting of 2 June 2015 the Planning Committee resolved to grant planning permission for the development proposed in applications 13/00519/PM and 14/0089/PM subject to the prior conclusion of legal agreements. At that same meeting the Planning Committee approved application 14/00534/PCL for the new primary school.

Planning permission in principle is sought through this application for a residential development of the application site with associated infrastructure, landscaping and engineering works.

An indicative development framework plan has been submitted with the application indicating how some 80 residential units could be accommodated on the application site. It is also indicated that a SUDS pond be accommodated on the southwestern part of the site and how an area of recreational open space and play facilities could be accommodated on the southern part of the site. It is also indicated how footpath linkages from the site into the site the subject of approval of matters specified in conditions of planning permission in principle 13/00071/PPM (ref: 14/00731/AMM) could be formed and how landscape planting could be formed on the northern and southern boundaries of the site.

The indicative development framework plan indicates that access to the site could be taken from the A6093 road by way of a new access junction at the northeast corner of the

site. The access indicatively shown is part of the approved access to the site the subject of approval of matters specified in conditions of planning permission in principle 13/00071/PPM (ref: 14/00731/AMM).

The northern part of the site consists of a mature tree belt and an access track. A small watercourse flows along the southern edge of the site.

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 15 January 2015 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission in principle. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed housing development to be the subject of an EIA.

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

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

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

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

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

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

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

Paragraph 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.

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.

At its Cabinet meeting of 10 December 2013, the Council agreed that at that time East Lothian had a shortfall in its effective housing land supply and in respect of this also approved Housing Land Supply: Interim Planning Guidance against which planning applications for housing on land not allocated for housing development would be assessed. This position, and the associated guidance, was updated in December 2014.

On 17 November 2015 the Council approved its draft Proposed Local Development Plan subject to amendment and to the carrying out of further technical work, including cumulative assessment of requirements for developer contributions in respect of education provision, community facilities and transportation. The approval, as amended, was of the spatial strategy, sites and policies of the draft Proposed Plan.

Material to the determination of the application are the written representations to the proposals. Seven written objections have been received. Copies of the written representations are contained in a shared electronic folder to which all Members of the Committee have had access.

The main grounds of objection are that in respect of the proposed development:

- \* it would harm the Clerkington Designed Landscape;



- \* it could impact on a tree belt required by a condition of planning permission in principle 13/00071/PPM;
- \* little weight has been given to Policy DC1 of the adopted East Lothian Local Plan 2008;
- \* it would harmfully impact on the countryside area in which the application site is located;
- \* it would have a detrimental impact on the approach and amenity of Haddington;
- \* it would lead to an increase in traffic and a resultant road safety hazard;
- \* many other residential developments have been approved in the Haddington area.

Contrary to what is stated in the written objections the lands of Clerkington are not part of the national Inventory of Gardens and Designed Landscapes.

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

The land of the site is part of site HN3 of the draft Proposed Plan approved by Council on 17 November 2015. As such, in respect of the provisions of Paragraph 34 of SPP, the proposal would not prejudice the emerging Plan.

Following the Council's approval of the draft Proposed Plan (subject to amendment, further technical work and cumulative assessment of developer contributions), where an application for planning permission or planning permission in principle is for a site of that draft Proposed Plan (as amended), support is given for the residential or other potential of the site as relevant. This support remains subject to appraisal of the site in terms of technical considerations and any constraints, including infrastructure capacity constraints. Assessment will include consideration of developer contributions in respect of impacts, including cumulative impacts, on education, transportation, community facility and other essential infrastructure.

In that the site now under consideration is part of housing site HN3 of the approved draft Proposed Plan, the Council recognises its potential for residential development. It is therefore appropriate to determine this application with due consideration of that recognised residential potential, subject to the above considerations and assessments.

Also, in being part of a site of the draft Proposed Plan it is an integral part of the group of sites which the Council recognises as having the potential to meet, cumulatively, the SPP and SESplan requirements of an effective five year housing land supply.

Thus the site being part of site HN3 of the approved draft Proposed Plan is a material consideration to be weighed against the considerations of national, strategic and local planning policy.

One of these considerations relates to the control of new build housing development in the countryside. Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008 sets out the circumstances in which new housing in the countryside may be appropriate, that being where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use and also minimises the loss of prime agricultural land. The housing development proposed in this

application is not necessary in these terms and as such is contrary to that policy provision.

However, the countryside designation of the land of the site must also be weighed against the requirement of SESplan Policy 7 that Policy DC1 be considered in the context of the housing land supply. It must also be considered in relation to the Council's previous recognition of a shortfall in the effective housing land supply in East Lothian and approval of its Housing Land Supply: Interim Planning Guidance.

In respect of Policy 7 and the Guidance, approval of the draft Proposed Plan results in the approval of sites with the potential to provide an effective five year housing land supply. The process of selecting and approving sites included assessment of them through considerations which reflect the criteria of the Interim Planning Guidance. Thus the approved Interim Planning Guidance need not be given significant weight in respect of sites that are integral to the strategy and sites of the approved draft Proposed Plan. However, it remains a material consideration in the determination of planning applications for sites not previously allocated for housing development and not part of the approved draft Proposed Plan.

The potential of residential development of the site is therefore supported by the approved, amended draft Proposed Plan such as to contribute to the effective five year housing land supply and help meet that requirement of SPP and SESplan Policy 7, thereby outweighing the considerations of Policy DC1 of the adopted East Lothian Local Plan 2008. As regards the further considerations of SESplan Policy 7, the site is outwith the Green Belt and the consideration in the draft Proposed Plan is that it is an appropriate extension of Haddington of a suitable scale.

The determination of the application therefore falls to a consideration of the technical merits of the proposal and its assessment in relation to requirements including, where identified, cumulative requirements for developer contributions for essential infrastructure.

The application site is bounded on its north side by the A6093 Pencaitland Road and 3 residential properties, on its east side by the area of land the subject of planning permission in principle 13/00071/PPM and approval of matters specified in conditions of planning permission in principle 13/00071/PPM (ref: 14/00731/AMM) and on its south side by areas of mature woodland.

On its west side the application site is bounded by a strip of agricultural land with a high hedgerow beyond. Between the strip of agricultural land and the high hedgerow is to be planted a belt of tree planting at least ten metres wide. This is a planning requirement embodied within Condition 3(i) of planning permission in principle 13/00071/PPM. Once planted this would form the western boundary of the application site.

These are robust and defensible boundaries which would serve to contain the proposed development along these aforementioned boundaries.

If planning permission in principle were to be granted, the details of the siting, design and external appearance of the proposed houses, the landscaping of the site and the means of access to the proposed development would require the subsequent approval of the Planning Authority. Through the subsequent determination of such details in relation to Scottish Government Policy of Designing Streets and the Council's Urban Design Standards for New Housing Areas, and the Council's policies and practices in respect of residential amenity, 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 the site and of the area.

The Council's Principal Amenity Officer is satisfied in principle with the quantity of open space and play area provision that is proposed. He notes that the location of the main open space and play area is indicatively proposed to the periphery of the site, however, he makes no alternative recommendation in respect of this. On the considerations of open space and play area 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 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 Bankton, Dolphingstone and Salters Road interchanges of the strategic road network. However at this time Roads Services analysis and modelling of traffic impacts in the wider area awaits completion and no further evidence is available at this time to inform an assessment of such impacts.

Roads Services recommend that:

- \* a 40 miles per hour (mph) speed limit on the A6093 Pencaitland Road should be brought into effect in a location from the existing 30 miles per hour (mph) speed limit on the A6093 Pencaitland Road westwards to the site access junction;
- \* an independent road safety audit be undertaken which should include identification of pedestrian safeguards and locations for bus stops needed to ensure safe movement of persons and vehicles within, to and from the site and an implementation programme describing when measures identified in the audit will be provided in relation to construction of the proposed development;
- \* street lighting be provided over the full extent of the proposed new 40mph speed limit on Pencaitland Road from the existing lighting at the junction with Clerkington Road to a point beyond the proposed site access;
- \* a visibility splay of 4.5m by 215m in both directions be provided and maintained at the proposed site access junction with the A6093 Pencaitland Road so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface;
- \* a continuous 2.5 metre wide shared pedestrian/cycle link be provided on the south side of the A6093 Pencaitland Road from the site access to Dobson's Well;
- \* two bus stops with shelters be provided on the A6093 Pencaitland Road, one on either side of the road for east and west bound traffic;
- \* a 2 metre wide footway be provided on the north side of Pencaitland Road (A6093) to provide a continuous connection from the northern (east bound) bus stop shelter as required above to the existing footway network to the east;
- \* a scheme for updating and improving operation of the existing traffic signals at the junction of Knox Place, Station Road, Hope Park and Court Street within Haddington to be implemented prior to the occupation of any house;
- \* a detailed a vehicle tracking (swept path) assessment be provided using the large design rigid vehicle for the application site showing all turning manoeuvres. 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;

- \* a pedestrian/cycle route be provided at the south eastern corner of the site to connect to the adjacent site to the east;

- \* the proposed "formal footpath" at the north eastern corner of the site be provided as shown on the indicative development framework plan;

- \* the priority junction onto the A6093 Pencaitland Road be laid out such that it includes corner radii at the junction of 10.5 metres on either side;

- \* any access roads which form short cul-de-sacs include turning areas to enable all vehicles to turn or alternatively road ends should be linked;

- \* 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;

- \* a Green Travel Plan (GTP) be submitted and approved in consultation with Roads Services. It should have particular regard to provision for walking, cycling and public transport access to and within the site, and will identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan;

- \* a Construction Method Statement to minimise the impact of construction activity on the public road network be submitted to and approved by the Planning Authority prior to the commencement of development. It should recommend mitigation measures to control construction traffic and include hours of construction work; and

\* wheel washing facilities be provided and maintained in working order during the period of operation of the site.

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

In respect of landscape matters the Council's Policy and Projects service advises that the landscape planting shown on the indicative masterplan would provide an acceptable landscape setting for the proposed development. Subject to the submission of a detailed landscape planting plan, which can be made a condition of a grant of planning permission in principle, the proposed development complies with Policy DP14 of the adopted East Lothian Local Plan 2008.

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. Subject to the imposition of this recommended condition 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.

The Scottish Environment Protection Agency (SEPA) raises no objection to the principle of the proposed development on the grounds of potential flood risk. It does, however, advise that a condition should be attached to any grant of planning permission in principle requiring that the discharge of surface water to the water environment should be in accordance with the principles of the SUDS (Sustainable Drainage Systems) Manual (C697) published by CIRIA.

The Council's Senior Structures Officer is also satisfied that the proposed development could be carried out without unacceptable risk of flooding.

Scottish Water has made no comment on the application.

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 Haddington Infant School, St Marys RC Primary School, King's Meadow Primary School and Knox Academy.

He advises that Haddington Infant School, King's Meadow Primary School and Knox Academy 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 £40,000 towards the provision of additional school accommodation at Haddington Infant School (£500 per unit), £30,000 towards the provision of additional school accommodation at King's Meadow Primary School (£375 per unit) and a contribution of £297,651 (£3,720.64 per unit) towards the provision of additional school accommodation at Knox Academy.

The required payment of a financial contribution of a total of £367,651 towards the provision of additional accommodation at Haddington Infant School, King's Meadow Primary School and Knox Academy 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 site being land of the site HN3 of the approved draft Proposed Plan as amended, and in that its impacts in respect of amenity and technical considerations can be mitigated through the appropriate use of planning conditions and the submission of detailed plans in respect of those conditions, the balance of the material considerations of this case support the proposals. In this it is consistent with Scottish Planning Policy: June 2014 and SESplan Policy 7, which considerations outweigh the provisions of Policy DC1 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:
  - (i) Secure from the applicant a financial contribution to the Council of £367,651 (£4,595.64 per residential unit) towards the provision of additional capacity at Haddington Infant School, King's Meadow Primary School and Knox Academy.

(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 Haddington Infant School, King's Meadow Primary School and Knox Academy 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 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 plan docketed to this planning permission in principle, but additionally shall comply with the following requirements:

a. The residential dwellings shall be no higher than two storeys which can include 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;

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. there shall be at least a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of existing or proposed 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. the priority junction onto the A6093 Pencaitland Road shall be laid out as shown on docketed drawing number J2701-sk13 "Proposed Junction Alterations" and shall include corner radii at the junction of 10.5 metres on either side. This shall include the movement of the road drainage gully to the new kerb line channel;

g. an independent road safety audit shall be undertaken which shall include identification of pedestrian safeguards and locations for bus stops needed to ensure safe movement of persons and vehicles within, to and from the site and an implementation programme describing when measures identified in the audit will be provided in relation to construction of the proposed development;

h. a visibility splay of 4.5m by 215m in both directions shall be provided and maintained at the proposed site access junction with the A6093 Pencaitland Road so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface;

i. a scheme for updating and improving operation of the existing traffic signals at the junction of Knox Place, Station Road, Hope Park and Court Street within Haddington shall be submitted for the prior approval of the Planning Authority and the scheme so approved shall be implemented prior to the occupation of any residential unit;

j. a detailed vehicle tracking (swept path) assessment shall be provided using the large design rigid vehicle for the application site showing all turning manoeuvres. 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;

k. any access roads which form short cul-de-sacs shall include turning areas to enable all vehicles to turn or alternatively road ends shall be linked;

l. with regard to the trees on the northern boundary of the site the proposed development shall be carried out in strict accordance with British Standard BS5837\_2012 "Trees in relation to design, demolition and construction ~ Recommendations" and an arboricultural survey demonstrating this shall be submitted with application(s) for approval of matters specified in conditions;

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;

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 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;

s. a play area shall be provided as shown on the docketed Indicative Development Framework. Details of the 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 pedestrian/cycle route shall be provided at the southeastern side of the site to connect to the adjacent site to the east as shown on the docketed Indicative Development Framework;

u. the proposed "formal footpath" at the northern part of the site shall be provided as shown on the docketed Indicative Development Framework;

v. notwithstanding that which is shown in the Indicative Development Framework docketed to this planning permission in principle, there shall be no pedestrian connections formed from the application site to the land to the west.

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 80 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. 24 in year 2018/2019, 24 in year 2019/2020 and 32 in year 2020/2021; and any slippage in any single year shall revert to year 2021/2022 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 the docketed tree survey drawings nos. 09025-MPSK-P001-A and 09025-STSU-P003 and shall otherwise fully accord with requirements of Conditions 11 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 a 40 miles per hour (mph) speed limit on the A6093 Pencaitland Road has been brought into effect in a location from the existing 30 miles per hour (mph) speed limit on the A6093 Pencaitland Road westwards to the site access junction. Details of the new 40 miles per hour speed limit shall be submitted to and approved in advance by the Planning Authority and shall include the provision of street lighting over the full extent of the proposed new 40mph speed limit on Pencaitland Road from the existing lighting at the junction with Clerkington Road to a point beyond the proposed site access. Thereafter the new 40 miles per hour speed limit 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:
- a. a continuous 2.5 metre wide shared pedestrian/cycle link shall be provided on the south side of the A6093 Pencaitland Road from the site access to Dobson's Well;
  - b. two bus stops with shelters shall be provided on the A6093 Pencaitland Road, one on either side of the road for east and west bound traffic;
  - c. a 2 metre wide footway shall be provided on the north side of Pencaitland Road (A6093) which shall provide a continuous connection from the northern (east bound) bus stop shelter required by b. above to the existing footway network to the east.

Details of the new 2.5 metre wide shared pedestrian/cycle link, two bus stops with shelters and 2 metre wide footway 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 The discharge of surface water from the application site shall be treated in accordance with the principles of the SUDS Manual (C697), which was published by CIRIA in March 2007.

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.

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 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.

- 10 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 1 December 2015  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

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*Note - this application was called off the Scheme of Delegation List by Councillor McMillan for the following reasons: This site on Gifford has a long planning history. I believe the Committee should have time to discuss this application in terms of the property having been vacant for a number of years. Also, the Committee should have time to consider whether this prominent site in the village ought to be deemed more compatible to residential use and its suitability for economic development in a predominantly residential area.*

Application No. **15/00576/P**

Proposal Alterations, extension and heightening roof of joiners workshop to form 1 house, erection of garage, alterations to vehicular access and associated works

Location **Old Yester School  
Duns Road  
Gifford  
East Lothian**

Applicant Mr Kenneth Power

Per Ironside Farrar

RECOMMENDATION Application Refused

#### PLANNING ASSESSMENT

This application relates to Old Yester School which is a former workshop building located on the south side of Dun Road, Gifford and on the east side of the junction of Duns Road with Walden Terrace.

The building and its associated front curtilage are within an established area of business use and as such an area defined by Policy BUS2 (Business Class Locations) of the adopted East Lothian Local Plan 2008. The rear curtilage of the building is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

The application site is bounded to the north by the classified B6355 Duns Road, to the east and south by the residential property of Old School House, to the west by the access

road that serves it and both the residential properties of Old School House and The Wards, with the public road of Walden Terrace beyond.

The application site is within Gifford Conservation Area.

In December 2011 planning permission 11/00703/P was granted for the change of use of part of the rear yard of the former workshop building to domestic garden ground to be used in association with the residential property of Old School House, including the formation of an area of hardstanding and the erection of a wall and gate. Planning permission 11/00703/P has since been implemented.

In December 2011 conservation area consent 11/00703/CAC was granted for the demolition of an outbuilding forming part of the rear yard of the former workshop building. That outbuilding has since been demolished.

Planning permission is now sought for the alteration and extension to the former workshop building including the heightening of its roof, to form one house. It is also proposed to erect a garage within the rear curtilage of the proposed house, to alter the existing vehicular access in the southern part of the west boundary of the site and to erect a section of wall along part of the west boundary of the site. The remaining curtilage of the former workshop would be used as garden ground in association with the proposed house.

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

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) June 2013 and the adopted East Lothian Local Plan 2008.

Policies 1B (The Spatial Strategy: Development Principles) and 2 (Supply and Location of Employment Land) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies BUS 2 (Business Class Locations), ENV1 (Residential Character and Amenity), ENV4 (Development Within Conservation Areas), DP2 (Design), DP6 (Extension and Alterations to Existing Buildings), DP8 (Replacement Windows), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development within a conservation area given in Scottish Planning Policy: June 2014.

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character and appearance of the conservation area should be treated as preserving its character and appearance.

One written objection to the application has been received. It is from a local resident. The main grounds of objection raised are:

- (i) the change of use of part of the grounds of the workshop to garden ground is not justification for the workshop becoming a house;
- (ii) the property was advertised to be sold strictly on the basis of commercial use;
- (iii) had the property been advertised with the potential of a change of use the Council and the Council tax payer in turn would have had greater interest in the sale from the public and other developers and a greater return from the sale.

Four written representations to the application have been received. Those too, are from local residents. They broadly offer support to the proposed change of use. The main points raised are:

- (i) the site has been becoming more and more squalid since the workshop use was surrendered by the previous tenant and it would be a joy to see the building transformed;
- (ii) it is not agreed that the workshop or other business use of the site would be incompatible with the local area. However no business has taken the opportunity to lease the building for many years with the consequential deterioration and dereliction of it;
- (iii) a business use would not be desirable for local residents;
- (iv) the prominent position of the building requires sympathetic treatment of its frontage on both Duns Road and Walden Terrace, in relation to the raising of the roof line;
- (v) it is important that the proposed conversion is compatible with the character of houses on Duns Road and does not visually detract from the existing architectural setting;
- (vi) the cupola would look out of place on a building of that type and;
- (vii) the increased height of the roof of the building may reduce light to the windows and garden of a neighbouring residential property.

Policy BUS1 states that within areas allocated for business and general industry, there is support in principle for uses within Use Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

The workshop building and its associated front curtilage are within an area defined by Policy BUS2 of the adopted East Lothian Local Plan 2008 as being allocated for business use, in which use within Use Class 4 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 will be acceptable in principle. Policy BUS2 also provides that where planning permission is required, Class 6 uses may be permitted where there would be no harm to amenity of the existing business area. Development that does not fall within these classes will not normally be permitted.

Although restrictive in the uses supported by it, Policy BUS2 is consistent with Policy 2 of the approved South East Scotland Strategic Development Plan (SESplan) June 2013, which supports the delivery of the quantity of the established strategic employment land supply for business uses. It is also consistent with Scottish Planning Policy: June 2014 which supports the allocation of sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area.

A supporting statement submitted as part of this application advises that the business use of part of the application site is no longer viable owing to the high costs and low return involved in refurbishing the building for a Class 4 Business purpose. Furthermore the absence of local demand for using the premises as a workshop and the significant impact on the potential to use the building following the Council sale of 250 square metres of land within the building's curtilage have all impacted on the scope to use the building for business and employment purposes.

The statement contends that the continued use of the workshop is unviable given the lack of demand for this use locally and this being demonstrated between 2008 and 2012 when the Council were unsuccessful in their attempt to lease the premises.

The Council's Community Housing & Property Management (Estates) Section advises that, on their tenant terminating their lease to use the building as a workshop in October 2008, they did not market the premises for lease.

They further advise that the premises were formally marketed for sale on 21 August 2012. From this date until the closing date for offers to purchase the property of 29 November 2012, 11 interested parties viewed it. Seven offers were received for the premises. Of those, 4 were to retain it in its existing use. One of those, the highest and accepted offer, was made by the applicant. One offer was made on the condition of a change of use to a children's nursery use, with two further offers being made conditional of a change of use to residential use.

In these circumstances, it has been satisfactorily demonstrated that the existing Class 4 business use of part of the site is still viable. Therefore there is no justification for change of use of the Class 4 business use of the site to a Class 9 residential use.

Furthermore if planning permission were to be granted for the proposed use it would conflict with the business use designated for part of the application site and would set an undesirable precedent whereby it would be difficult for the Council, as Planning Authority to refuse to grant planning permission for other non-Class 4 business uses with a consequential depletion of the Council's allocated supply of sites for such business uses.

Therefore, the proposed change of use of part of the application site and thus the former workshop building and its associated front curtilage to a Class 9 residential use is contrary to Policy 2 of the approved South East Scotland Strategic Development Plan (SESplan) June 2013, Policy BUS2 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: June 2014.

The rear curtilage of the former workshop building and thus all land south of its rear elevation, is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

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

The use of the rear curtilage of the former workshop building as garden ground to be used in association with the proposed use of the building as a house would not have a harmful affect on the privacy or residential character and amenity of neighbouring residential properties or the area. Nor would the proposed change of use of the rear curtilage be harmful to the character and appearance of the Conservation Area. It is therefore consistent with Policies ENV1 and ENV4 of the adopted East Lothian Local Plan 2008.

The proposed alterations to the former workshop building to facilitate its use as a house comprise:

- (i) replacement of all of its existing windows with timber framed double glazed windows;
- (ii) enlargement of one of the existing window openings in its east elevation to form a door opening and the installation within that new door opening of a vertical panelled



timber door; and

(iii) enlargement of existing window and door openings in its south elevation to form two large window openings and the installation within those window openings of timber framed and glazed tripartite windows.

The existing building has mostly a rectangular footprint with a north projecting component. It has a dual pitched roof. It is proposed to replace the existing roof of the building with a hipped roof with a flat roofed top. In so doing it is proposed to raise the overall height of the roof such that its flat top would be some 1.6 metres higher than the ridge of the highest part of the existing roof of the building. In this, the eaves height of the building would be raised by some 0.5 of a metre and a recessed lead up-stand introduced between them and the wallhead of the building. The roof would also extend beyond the re-entrant north elevation of the building, forming a canopy beneath it. The canopy of the roof would be supported by a natural stone pier at its northeast corner. A number of roof windows would be formed in each roof slope of the new roof with a cupola being formed on top of its flat roofed top. Chimneys and salvaged roof cowls would also punctuate the new roof.

The proposed alterations to the building, by their architectural form, positioning and materials would be sympathetic alterations to the building that would be subservient and in keeping with it. They would not be harmful to the character and appearance of the building or the character and appearance of the Conservation Area.

The existing workshop building occupies a prominent roadside location. By being single storey in height and of a modest architectural style, it sits comfortably within its streetscape setting. The proposed new roof to be formed over it to facilitate the provision of habitable accommodation within its roof space would not radically alter its relationship with the built form that surrounds it or cause the house to appear overly dominant within its streetscape setting. The resultant change would be sympathetic to the architectural form of the building and would not cause it to have a significantly greater impact on its setting or the Conservation Area.

Subject to the roof windows of the new roof being flush fitted into the roof slope they would occupy, a matter that could be controlled by a condition of the grant of planning permission, the proposed new roof and the canopy that would be formed beneath a part of it would be in keeping with the existing building and would be well integrated into their surroundings. They would not be harmful to the character and appearance of the house or the character and appearance of the Conservation Area.

On these considerations the proposals do not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) June 2013, Policies ENV4, DP6 or DP8 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: June 2014.

Policy DP6 also requires that a proposed extension to a building should not adversely affect the existing residential amenity of neighbouring properties. Accordingly it should not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

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

and the windows of existing neighbouring residential properties.

The new window openings to be formed in the south elevation of the proposed house and the roof windows to be formed in its north, west and south elevation roof slopes would be positioned and orientated such that they would face towards the garden ground of the proposed house and where applicable, beyond to the public road and footpath of Duns Road and Walden Terrace. In such circumstance they would not allow for harmful overlooking of any neighbouring residential property.

The new door opening to be formed in the east elevation of the proposed house would face towards a wall and fence that encloses the mutual east boundary of the site with the neighbouring residential property of Old School house to the east. In such circumstance it would not allow for harmful overlooking of the neighbouring residential property of Old School House or any other neighbouring residential property.

The two roof windows that would be at such a height above the finished first floor level of the proposed house that they would not allow for harmful overlooking of two ground floor windows that exist in the west gable wall of the neighbouring house of Old School House to the east.

"Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair gives guidance on the impact of a proposed extension on the daylight and sunlight received by neighbouring properties.

In the Guide it is stated that in designing an extension to a building it is important to safeguard daylight and sunlight to nearby buildings.

In this regard and in the case of windows of an existing building that are directly facing towards the position of a proposed extension or other form of new build development the Guide gives a test to find out whether those windows would still receive enough daylight. This test is applied to the windows using drawings that show the sectional relationship between the proposed extension and the directly facing windows of the existing building. If a proposed extension or other form of new build development is below a line that is drawn rising at a 25 degree angle from a line drawn perpendicular to a centre point on the outer face of the affected window(s) then the proposed extension would not cause a harmful loss of daylight to the window(s).

Existing windows in the west gable of the neighbouring house of Old School House face directly towards the existing building and thus the proposed new roof that is to be added to it. When the 25 degree angle test is applied to the new roof of the building relative to the existing west elevation windows of The Old Scholl House it is found that the new roof would be above the 25 degree test line. It can therefore be concluded that the proposed new roof would give rise to a loss of daylight to the existing west elevation windows of the neighbouring house of The Old School House.

However, the rooms that are served by the windows in the west gable wall of that neighbouring house are also served by other window openings, formed in the north and south elevations of the house. As those rooms, being a sitting room and dining room, would still receive daylight, the proposed development would not give rise to a degree of overshadowing that would be harmful to the neighbouring residential property of The Old School House.

Owing to its position and orientation the existing building as its is proposed to be extended with the addition of a new roof, would not give rise to harmful overshadowing of any neighbouring residential property.

On the considerations of overlooking and overshadowing the proposed development does not conflict with Policy DP6 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Service has no comment to make on the application.

The proposed garage would be erected within the southeast corner of the rear garden of the proposed house. It would have a flat roof. Its walls would be finished in natural stone. A timber garage door would be installed in its west elevation.

The proposed length of wall to be erected along the west boundary of the rear garden of the proposed house would at its greatest extent, be some 1 metre in height. It would be constructed of natural stone and extend southwards from the southwest corner of the proposed house.

Part of the existing length of wall that encloses the southern part of the west boundary of the site would be demolished to allow existing vehicular access to the site to be repositioned.

By their size, scale, form, positioning and materials, the proposed garage, wall and the altered vehicular access would all be appropriate for their location and well integrated with their surroundings. They would not be harmful to the setting of the proposed house or the character and appearance of the area.

On these considerations the proposed garage, wall and altered vehicular access are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) June 2013, Policies ENV4 and DP2 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: June 2014.

Use of the proposed garage would not allow for a harmful loss of privacy or amenity of any neighbouring residential property.

By its size, form and positioning the proposed garage would not allow for harmful overshadowing of any neighbouring residential property.

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

Vehicular access to the site is taken from the private access road to the west of the site which in turn takes access from the classified public road of Duns Road to the north.

The Council's Road Services recommend that the proposed house be served by three off street parking spaces. The proposed site plan submitted as part of the application indicates only one off-street car parking space would be formed in the rear curtilage of the proposed house. The Council's Road Services do however confirm that there is adequate space within the rear curtilage of the proposed house to accommodate 3 off-street parking spaces and recommend that their layout be shown on the site plan.

The Council's Road Services advise that a site line visibility of 2.4 metres by 70 metres to the east and west of the vehicular access from Duns Road is required. To achieve this visibility to the east of the access the north roadside boundary wall of the property is required to be re-aligned.

Owing to a difference in ground level between the private access road that serves the site and Walden Terrace to the west of it, the Council's Road Services recommend that a

bollard or other form of enclosure be erected opposite the vehicular access to be altered in the west boundary of the site. The reason for this is indicate the edge of the private road in the interests of road safety.

Matters concerning the layout of off-street parking, the provision of site line visibility from the access from Duns Road to the private access road and the provision of a bollard or other similar enclosure could reasonably be controlled by conditions of the grant of planning permission.

Subject to these controls, on transportation matters the proposals would be consistent with Policies DP22 and T2 of the adopted East Lothian Local Plan 2008.

However, it should be noted that the agent for the application does not agree with the requirement to improve site line visibility from the access to the private access road from Duns Road. He is of the view that the proposed change of use would have a net positive effect on road safety at this location.

Such policy compliances do not however outweigh the primary material consideration in the determination of this application that the proposed change from a viable employment land use is not appropriate or justified. Nor is the provision of a single house a consideration of sufficient material weight to outweigh the provisions of the development plan. The proposed change of use is contrary to Policy 2 of the approved South East Scotland Strategic Development Plan (SESplan) June 2013 and Policy BUS2 of the adopted East Lothian Local Plan 2008.

#### REASON FOR REFUSAL:

- 1 The proposed Class 9 residential use would result in the depletion of the Council's allocated, established supply of sites for business uses and would set an undesirable precedent for other non Class 4 business uses on land allocated for business use. It is therefore contrary to and undermines the objectives of Policy 2 of the approved South East Scotland Strategic Development Plan (SESplan) June 2013 and Policy BUS2 of the adopted East Lothian Local Plan 2008.

*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)*