



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

**TUESDAY 3 NOVEMBER 2015
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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 councillor, 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.

Signed

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Councillor Norman Hampshire
Convener of the Planning Committee