

PLANNING COMMITTEE

5 JANUARY 2016

PUBLIC DOCUMENT PACK

REPORT TO: Planning Committee
MEETING DATE: Tuesday 5 January 2016
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

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Application No. **15/00686/PM**
Proposal Erection of 97 houses and associated works
Location **Land To The North Of Gateside Road
Haddington
East Lothian**
Applicant Persimmon Homes (East Scot)
RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

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

As a statutory requirement of major development type proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 13/00007/PAN) and thus of community consultation prior to this application for planning permission 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 26 people attended the pre-application public exhibition, which was held at the Town House, Haddington, and that from those attendees 10 feedback sheets or emails were received making a number of queries and suggestions regarding the proposals. The development for which planning permission 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.

On 12 January 2015 planning permission (ref: 14/00219/PM) was granted for the erection on the site of the Gateside Commerce Park in Haddington of 112 houses, 14

business/light industrial units (Class 4 use), a pub/restaurant and for associated works. The 14 Class 4 business/light industrial units would have associated parking and be on some 0.26 of a hectare of the site.

Planning permission 14/00219/PM was granted following the conclusion of Section 75 Legal Agreement to secure, (i) affordable housing units, (ii) a financial contribution to upgrade the access junction with West Road and for a financial education contribution towards additional accommodation at Haddington Infant School and Knox Academy, (iii) the servicing of the land for business/light industrial units and the transfer of the land on which they are to be built to the Council.

Planning permission is now sought for the erection of 97 houses and associated works on 4.07 hectares of land which comprise part of the former Gateside Commerce Park and thus on part of the land that was subject of planning permission 14/00219/PM. The site does not include the land for the business/light industrial units or for the pub/restaurant.

The application site is bounded to the north by a length of the Haddington to Longniddry railway walk.

To the east it is bounded by a length of road beyond which is a field (known as Gateside East). In November 2014 planning permission in principle 13/00800/PPM was granted for a residential and business development on that field. In April 2015 approval of matters specified in conditions of planning permission in principle 13/00800/PPM (Ref: 14/00940/AMC) was granted for the erection of 20 houses on part of the northern end of the land approved for residential use by planning permission in principle 13/00800/PPM. Also in April 2015 approval of matters specified in conditions of planning permission in principle 13/00800/PPM (Ref: 14/00941/AMC) was granted for the erection of 40 houses on the remainder of the land approved for residential use by planning permission in principle 13/00800/PPM.

In November 2014 planning permission (Ref: 14/00904/P) was sought for the erection of 19 houses on the western end of the land approved for residential use by planning permission in principle 13/00800/PPM. That site is immediately to the west of the site that is the subject of this application. That application is minded to be approved subject to a Section 75 legal agreement. In August 2015 planning permission (ref: 15/00599/P) was sought for the erection of a nursing home, 30 extra care flats and associated works on the land approved for business use by planning permission in principle 13/00800/PPM. That application is pending consideration and no decision has been taken on it.

To the west the application site is bounded by land comprising the western part of the former Gateside Commerce Park for which planning permission in principle (ref: 11/00729/PPM) and approval of matters specified in conditions (ref: 12/00896/AMM) have been granted for the development of a Class 1 retail store and for a petrol filling station on the western part of the application site, for the reconfiguration of the existing car park of the Gateside Commerce Park and for associated works.

To the south the site is bounded by the B6471 West Road, 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.

The site plan shows how 97 houses would be accommodated on the site along with associated access roads, parking areas, landscaping and open space. The houses would comprise of a mix of detached, semi-detached and terraced two storey houses.

The proposed housing would be accessed from two points, one from a new junction with the B6471 road and also from the existing road which bounds the site to the east.

The proposed housing development would largely constitute a redesign of layout and house types of the residential development approved by the grant of planning permission 14/00219/PM.

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 17 October 2013 the Council issued a formal screening opinion. 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 development to be the subject of an EIA.

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

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

Policies 2 (Supply and Location of Employment Land), 5 (Housing Land) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) are relevant to the determination of the application. So too are Policies BUS1 (Business and General Industrial Locations), INF3 (Infrastructure and Facilities Provision), H1 (Housing Quality and Design), H4 (Affordable Housing), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in New General Needs Housing Development), DP1 (Landscape and Streetscape Character), DP2 (Design), DP14 (Trees on or adjacent to Development Sites), DP17 (Art Works- Percent for Art), DP20 (Pedestrians and Cyclists), DP22 (Private Parking), DP23 (Waste Minimisation, Separation, Collection and Recycling), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

A material consideration in the determination of this application is the supplementary planning guidance of "Design Standards for New Housing Areas" approved by the Council on 10th March 2008. This guidance requires that a flexible approach be taken in

road layout and design for proposed housing developments and sets core design requirements for the creation of new urban structures that will support Home Zone development as well as establishing design requirements for the layout of and space between buildings. Developers must provide adequate information to the satisfaction of the Council to demonstrate the merits of their design.

Also material to the determination of the application is Planning Advice Note 67: Housing Quality and the Scottish Government policy given in Scottish Planning Policy: June 2014.

Planning Advice Note 67: Housing Quality explains how Designing Places should be applied to new housing. In PAN 67 it is stated that the planning process has an essential role to play in ensuring that: (i) the design of new housing reflects a full understanding of its context - in terms of both its physical location and market conditions, (ii) the design of new housing reinforces local and Scottish identity, and (iii) new housing is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful attention to detailed aspects of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing should take account of the wider context and be integrated into its wider neighbourhood. The quality of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not only to setting and layout and its setting, but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

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

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

No written representations have been received to the application.

At its Cabinet meeting of 10 December 2013, the Council agreed that East Lothian has a shortfall in its effective housing land supply and therefore approved its Housing Land Supply: Interim Planning Guidance against which planning applications for housing on land not allocated for housing development will be assessed. The application site is not allocated for residential development. However, in its consideration of application

14/00219/PM leading to a grant of planning permission for housing development of this part of the former Gateside Commerce Park, the Planning Committee approved the principle of residential development of the site in terms of the Interim Planning Guidance.

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.

The land of the site is part of site HN5 of the draft Proposed Plan approved by Council on 17 November 2015. 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 the site for mixed use development approved by planning permission 14/00219/PM and is part of site HN5 of the approved draft Proposed Plan which includes for up to 110 houses and employment generating uses, the Council recognises its potential for residential development and indeed has previously approved such use.

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 approved for residential development by planning permission 14/00219/PM and being part of site HN5 of the approved draft Proposed Plan are material considerations to be weighed against the considerations of national, strategic and local planning policy.

One of these considerations relates to the current designation of the application site under the terms of Policy BUS1 of the adopted East Lothian Local Plan 2008, as part of the established employment land supply of East Lothian. Policy BUS1 supports in principle uses within Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and states that development that does not fall within these classes will not normally be permitted, with the exception of retail activity that is directly related and ancillary to a business or industrial process being carried out on the site.

However, the employment designation of the land of the site must also be weighed against the requirement of SESplan Policy 7 that it be considered in the context of:

- i) the housing land supply;
- ii) 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;
- iii) the grant of planning permission 14/00219/PM for residential and commercial development; and

iv) the site being part of site HN5 of the approved draft Proposed Plan.

In respect of SESplan 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 application site is therefore supported by planning permission 14/00219/PM and the 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 BUS1 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.

However, this should not be seen in isolation of the Council's aspiration for the wider former Gateside Commerce Park under the terms of proposal HN5 of the draft Proposed Plan to include for employment generating uses, including a pub/restaurant to reflect the development approved by the grant of planning permission 14/00219/PM.

In taking the decision to grant planning permission 14/00219/PM, and in accepting the loss of business land comprising the former Gateside Commerce Park to enable a mixed use development of housing, business/light industrial units (Class 4) and a pub/restaurant, the Council required the loss of the business land of the commerce park be compensated for by ensuring the land of the 14 business/light industrial units (Class 4) be serviced by the applicant and that the land be transferred to the Council once this was complete. This was subject to a Section 75 agreement.

The determination of the application therefore falls to a consideration of the merits of the layout and design of the housing development proposed and its assessment in relation to requirements including, where identified, cumulative requirements for developer contributions for essential infrastructure and to ensure the employment generating uses secured through planning permission 14/00219/PM are maintained.

West Road is an important gateway into Haddington. As for planning permission 14/00219/PM the houses along the frontage of the proposed development would be set back from West Road and separated from it by landscape planting (substantially so at the east side of the site). That landscape planting would not be as robust as at present along the full frontage of the development. However, the purpose of landscaping and planting is to integrate development with its surroundings, not to hide it from view. For this important gateway the appearance of the development should introduce urban character in an appropriate landscape setting. As proposed the development would ensure the setting of West Road on approach to the town centre would retain a visually attractive landscape character, with the proposed houses visible but not appearing prominent or intrusive in their surroundings. The proposals respond appropriately to the character of this location in this respect.

One of the principal objectives of the Council's approved Design Standards for New Housing Areas is to reduce the visual dominance of the car in the streetscape of new housing developments. The applicant has addressed this principle along the main frontage of the development and also along the primary routes through it, by use of parking courts to the rear of houses and in-curtilage parking to the rear or side of houses. Elsewhere the applicant proposes to plant hedges along the front boundaries of the front gardens of the houses in the development. To some degree, this would serve to reduce the visual dominance of the car in these streetscapes. In this and in the design principles of the street layout the proposals generally respond to the requirements of the Design Standards.

The range of house types now proposed would give a variation of architectural form to the development, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development. The architecture of the proposed houses is of a traditional pitched roof form. It should be ensured that the use of render is the predominant wall finish as this would respect the built form of other housing developments in Haddington. However, some use of a contrasting wall finish (i.e. reconstituted stone or facing brick) would be acceptable providing it is limited to a distinctively complete feature of the houses and respectful of their design integrity. A condition can be imposed on the grant of planning permission for the proposed development to address these matters of wall finishes. The proposed housing development would provide an attractive residential environment. The houses are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses an appropriate level of privacy and residential amenity.

The site is capable of accommodating all of the proposed development including vehicular and pedestrian access and amenity space without being an overdevelopment of it. The proposed development would be of a pattern and density consistent with existing patterns and densities of housing and other development within this part of Haddington.

In their generally simple architectural form the proposed houses would, by their size, height, design, finishes and layout integrate and sit comfortably with the built architectural form and layout of the other parts of the development the subject of planning permission 14/00219/PM and with the houses being built as part of the adjacent Gateside East development.

In respect of open space and play provision, the Council's Principal Amenity Officer advises that the proposed open space provision shown to be provided is sufficient to provide for the proposed development.

In respect of landscape matters the Council's Policy and Projects service advises that they are supportive of the proposed landscaping of the site subject to trees being retained on site being protected during construction works. The provision of the proposed landscaping of the site and tree protection measures can be made conditions of a grant of planning permission. On this consideration the proposed development is consistent with Policy DP14 of the adopted east Lothian Local Plan 2008.

The Council's Biodiversity Officer raises no objection to the application.

The Council's Environmental Protection Manager raises no objection to the application.

The Council's Waste Services Manager raises no objection to the application.

The Council's Road Services advises on the need to secure a financial contribution of £30,000 from the applicant to enable the future signalisation of the Letham Mains site access which would be opposite the site access to the housing proposed in this application. Road Services also advise on the need to provide precise detail of the proposed pedestrian link from the site to the adjacent Gateside East site the subject of application 13/00800/PPM, of the need for barriers to be erected to prevent vehicular access along part of the road which bounds the site to the east and of the need for a construction method statement to minimise the impact of construction activity on the amenity of the area. Otherwise Roads Services is satisfied that the site can be safely accessed and that sufficient parking would be provided. In their location the proposed houses would be capable of being conveniently and safely accessed by public transport, on foot and by cycle, as well as by private vehicle. The recommendation for a financial requirement towards signalisation of the access junction relative to development at Letham could be made subject to 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.

On another matter Road Services advises that Ugston Road (the road bounding the application site on its east side) requires a redetermination from a road to a cycle/pedestrian route following the erection of barriers as required above, in accordance with the Roads (Scotland) Act 1984. However the authority for the redetermination of Ugston Road rests with the Council as Roads Authority and is therefore a matter to be dealt with by the Council's Road Services under their separate statutory powers.

Transport Scotland advise that they have concern in regard to the development impact on the junction of the A1 trunk road and the A720 trunk road (i.e. the Old Craighall Junction south of Musselburgh, at the western end of East Lothian). In this regard they have sought a contribution from the developer towards mitigation of this perceived impact. Transport Scotland advise that they intend to enter into an agreement with the applicant under Section 48 of the Roads (Scotland) Act to secure a financial contribution.

The Scottish Environment Protection Agency (SEPA) raise no objection to the proposed development.

Scottish Water have made no comment on the application.

Given the scale of the proposed development and its prominent public location, if planning permission 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, subject to which the proposal would be consistent with the requirements of Policy DP17 of the adopted East Lothian Local Plan 2008.

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 with its nursery class, St Mary's RC Primary School, King's Meadow Primary School and Knox Academy.

He advises that Haddington Infant School and Knox Academy do not have sufficient capacity to accommodate children that could arise from the proposed development and that King's Meadow Primary School has insufficient furniture, fittings and IT equipment. Thus he objects to the application on the grounds of lack of permanent capacity and equipment at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of; £62,792.12 towards the provision of additional accommodation at Haddington Infant School (£647.34 per unit), £21,000 towards the provision of additional furniture, fittings and IT equipment at King's Meadow Primary School (£216.49 per unit) and a contribution of £203,974.25 towards the provision of additional school accommodation at Knox Academy (£2,102.83 per unit).

The required payment of a financial contribution of a total of £287,766.37 towards the provision of additional accommodation and equipment 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 Service advises that in accordance with the Council's affordable housing policy, 25% of the proposed 97 houses should be affordable housing units, i.e. a total of 24 affordable housing units. They should be provided on site or if it can be demonstrated to the Council that this, or the off-site provision of 24 affordable units is not practicable, a commuted sum payment should be made to the Council in lieu of such an on or off-site provision. The terms for the provision of this affordable housing requirement should be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement the proposal is consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

Through its determination of previous application 14/00219/PM the Council only accepted the principle of a residential development of part of the former Gateside Commerce Park subject to land for Class 4 business/light industrial units also the subject of that application being serviced by the applicant and thereafter transferred to the Council to compensate for the loss of the business land of Gateside Commerce Park.

If planning permission is to be granted for the housing development now proposed, the required business land secured through planning permission 14/00219/PM must therefore be secured on the same terms by an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. This would also ensure the provision of employment generating uses as required by proposal HN5 of the draft Proposed Plan. 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.

RECOMMENDATION

It is recommended that planning permission 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 £287,766.37 (£2,966.66 per residential unit) towards the provision of additional capacity and equipment at Haddington Infant School, King's Meadow Primary School and Knox Academy;

(ii) secure from the applicant the provision for 24 affordable houses within the application site, or if it can be demonstrated to the Council that this, or the off-site provision for 24 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;

(iii) secure from the applicant a financial contribution to the Council of £30,000 towards the future signalisation of the site access junction with West Road;

(iv) secure the servicing of the land of the 14 Class 4 business/light industrial units approved by the grant of planning permission 14/00219/PM on the same terms as the Section 75 agreement to which that permission is subject, unless that servicing has already been completed;

(v) secure the transfer to the Council, at no cost, of ownership of the serviced land of the 14 Class 4 business/light industrial units and the associated parking area approved by the grant of planning permission 14/00219/PM on the same terms as the Section 75 agreement to which that permission is subject, unless that transfer has already been completed.

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to, an insufficient provision of serviced business land, a lack of sufficient school capacity at Haddington Infant School, King's Meadow Primary School and Knox Academy, a lack of provision of affordable housing and that it would be a road safety hazard, contrary to, as applicable, Policies INF3, H4 and T2 of the adopted East Lothian Local Plan 2008.

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

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

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

Reason:

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

- 2 The number of residential units to be completed on the site each year shall be as follows unless otherwise approved in writing in advance by the Planning Authority:

Year 2016/2017 - 18 residential units
Year 2017/2018 - 34 residential units
Year 2018/2019 - 34 residential units
Year 2019/2020 - 11 residential units

Should any completions be fewer per year than given above then the difference shall be added to the end of the 4 year phasing period and not to the year following on.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site and to ensure that there is sufficient education provision.

- 3 A detailed specification of all external finishes of the houses hereby approved shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. However, some use of a contrasting wall finish (i.e. reconstituted stone or facing brick) would be acceptable providing it is limited to a distinctively complete feature of the houses and respectful of their design integrity. All such materials used in the construction of the houses shall conform to the details so approved.

Reason:

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

- 4 Details of all boundary treatments and ground surfacings for the site shall be submitted to and approved by the Planning Authority prior to their use in the development. All such materials used in the development shall conform to the details so approved.

Reason:

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

- 5 Prior to the commencement of development full details of the finalised 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.

- 6 Prior to the occupation of the last of the residential units hereby approved, the proposed site access roads, parking spaces, footpaths and pedestrian links shall have been constructed on site, in accordance with that which is shown on the docketed site layout plan. The precise detail of the pedestrian link between the application site and the site to the east the subject of planning permission in principle 13/00800/PPM shall be submitted to and approved in advance by the Planning Authority. All those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles and as pedestrian footpaths in connection with the residential use of the houses and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

For the avoidance of doubt single driveways shall have minimum dimensions of 6 metres by 2.5 metres and double driveways should have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length.

Reason:

To ensure that adequate and satisfactory provision is made for access and for off-street parking in the interests of road safety.

- 7 Prior to the occupation of the houses to built on plots 41 to 52 approved by the grant of planning permission 14/00219/PM that are detailed on the docketed site layout plan, the parking area for each of them as hereby approved shall be constructed on the site as shown on the docketed site layout plan and shall thereafter be used for no other purpose than for the parking of vehicles in connection with the residential use of the houses and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

To ensure that adequate and satisfactory provision is made for off-street parking in the interests of road safety.

- 8 No trees or shrubs which are to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

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

- 9 No development shall take place on site until temporary protective fencing has been erected in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction". This temporary protective fencing shall be erected prior to works commencing and kept in good condition throughout the works. The fencing shall be erected in the positions shown for it as indicated by the orange lines (with circles) on the docketed site layout drawing no. HGW-02-01 Rev E.

All weather notices shall be erected on said fencing with words such as "Construction exclusion zone - Keep out" and the fencing shall remain on site and intact through to completion of the development. Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used. Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees. Any materials whose accidental spillage would cause damage to a tree should be stored and handled well away from the outer edge of its Root Protection Area. Fires on sites should be avoided if possible. Where they are unavoidable, they should not be lit in a position where heat could affect foliage or branches. The potential size of a fire and the wind direction should be taken into account when determining its location and it should be attended at all times until safe enough to leave.

Reason:

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

- 10 All new planting as shown on docketed drawings nos. HGW-02-01 Rev E, 143.91.01b, 143.91.02b, 143.91.03b, 143.91.04b 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 and to improve the biodiversity value of the area.

- 11 Prior to the occupation of the residential units hereby approved barriers shall be installed in positions on Ugston Road (the road bounding the application site on its east side). Details of the barriers as well as their precise locations shall be submitted to and approved in advance by the Planning Authority and the barriers installed shall accord with the details so approved.

Reason:

In the interests of road safety.

- 12 All the open space recreation areas indicated on the docketed site layout plan shall be available for use prior to the occupation of the last house on the site.

The open space recreation areas, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory laying out of all areas of open space in the interest of the amenity of the future occupants of the dwellings hereby approved.

- 13 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. Such facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason:

In the interests of road safety.

- 14 A Construction Traffic Method Statement designed to minimise the impact of the movements of construction traffic to and from the application site shall be submitted to and approved by the Planning Authority prior to the commencement of development on the site. It shall include hours of construction work and any recommended mitigation measures for the control of construction traffic, and shall, as may be applicable, be implemented prior to the commencement of development and during the period of development works being carried out on the application site. The method statement shall also include details of decommissioning of the development.

Reason:

To minimise the impact of construction traffic in the interests of road and pedestrian safety in the locality.

- 15 No residential unit shall be occupied unless and until details of artwork to be provided on the application site or at an alternative location away from the site have been submitted to and approved by the Planning Authority. The details shall include a timetable for the provision of the artwork. The artwork shall thereafter be provided in accordance with the details so approved.

Reason:

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

REPORT TO: Planning Committee
MEETING DATE: Tuesday 5 January 2016
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

2

Note - this application was called off the Scheme of Delegation List by Councillor Grant for the following reason: there is considerable interest in this application within the communities of Tranent and Macmerry therefore I believe the Committee should deliberate and consider its merits.

Application No. **14/00860/P**

Proposal Change of use of agricultural land for storage and distribution (class 6) use and for use as 4 individual permanent Gypsy Traveller pitches (3 caravans per pitch), erection of amenity block for use as shower/toilet and kitchen facilities, erection of bin store, fencing, walls, gates and gate piers, formation of hardstanding areas and installation of lighting (part retrospective)

Location **Muirpark Steading
Tranent
East Lothian**

Applicant Mr Jason Irvine

Per Alan Seath Planning Consultant

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to the site known as Muirpark Steading, which occupies a countryside location between Macmerry to the east and Tranent to the west. The site is on the south side of the A199 public road and is bounded by Muirpark Cottage on its west side. The application site is roughly square shaped and measures some 3241 square metres in area.

Planning permission is sought for:

(i) the change of use of the agricultural land of the site for use as 4 individual permanent gypsy/traveller pitches (3 caravans per pitch) and for the part change of use of the land to Class 6 storage and distribution use;

- (ii) the erection of an amenity block for use as shower/toilet and kitchen facilities;
- (iii) the erection of a bin store, fencing, walls, gates and gate piers; and
- (iv) the formation of hardstanding areas and the installation of lighting.

Planning permission is sought part retrospectively as the agricultural land has been changed in use to 4 individual permanent Gypsy Traveller pitches (3 caravans per pitch), the amenity block for use as shower/toilet and kitchen facilities has been erected, the fencing, walls, gates and gate piers have been erected and the hardstanding areas formed and lighting installed. The bin store has yet to be erected.

The land of the application site is enclosed on its north roadside boundary by a high stone wall, which extends southwards to enclose parts of the east and west boundaries of the site. A 1.8m high timber fence encloses the remainder of the east and west boundaries of the site as well as the southern boundary of the site.

Access to the site is taken from the A199 public road to the north. A tarmac driveway leads to a set of timber gates which have been erected at the entrance to the site at its eastern side.

In a supporting statement received with the application it is stated that the applicants are a gypsy/traveller family. They seek planning permission to establish this site as a permanent pitch stating there is no safe, secure, suitable, equitable alternative authorised site in East Lothian. Moreover the applicant is able to operate their business from the part of the site is use for Class 6 storage and distribution use. The site also has good connections to Tranent, hospitals, schools, colleges and community services.

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.

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP2 (Design), DP22 (Private Parking) and T2 (General Transport Impact) and 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 the Scottish Government's policy on housing given in Scottish Planning Policy: June 2014.

A total of 45 written objections have been received in respect of this planning application. Most of the written objections take the form of a pro-forma letter.

The main grounds of objection can be summarised as follows:

- (i) the site is not suitable or appropriate for such development;
- (ii) the proposal constitutes development in the countryside which is contrary to Policy;
- (iii) the use of the site would have a detrimental effect on local amenity and Tranent;

- (iv) the use of the site is a road safety hazard;
- (v) lighting installed is a distraction to drivers;
- (vi) the application is made retrospectively; and
- (vii) the development would have an impact on house prices.

The fact that development has commenced on the site without planning permission having first been granted for it does not debar the applicant from applying retrospectively for planning permission and does not preclude a determination of this application on the merits of the proposed development, assessed against relevant development plan policies and other material planning considerations.

The impact of a development on house prices is not a material consideration in the determination of an application for planning permission.

The Tranent and Elphinstone Community Council, as a consultee on the application, object to it on the grounds that (i) the use of the site for business use is not consistent with the provisions of Policy DC1 of the adopted East Lothian Local Plan 2008, (ii) the applicant started the development without a grant of planning permission, and (iii) the applicant did not engage with the Community Council.

The Council's Corporate Policy and Performance Team have previously confirmed that a 2008 employment tribunal determined that Gypsy Travellers are a distinct ethnic group and therefore protected by equalities legislation in the form of the Equalities Act 2010. There is no burden of proof on any group so protected. As such any person or household may declare themselves as being gypsy/travellers. Also the Scottish Census 2011 recognised the specific category of gypsy/traveller as a distinct ethnic group covered by law, and which group has been added to the population profile.

It is stated in paragraph 133 of Scottish Planning Policy: June 2014 that suitable sites should be identified for Gypsy/Traveller communities taking into account their mobile lifestyles. Local development plans should consider whether policies are required for small privately-owned sites for Gypsy/Travellers. Gypsy and Traveller communities should be involved in decisions about sites for their use.

The development plan does not contain any specific planning policy relating to the provision of gypsy/traveller sites.

Although Policy DC1 of the adopted East Lothian Local Plan 2008 sets out the criteria against which new tourism development and new housing development proposals in the countryside of East Lothian may be acceptable it does not contain any criteria in which to assess the provision of gypsy/traveller sites.

The Council's Policy and Projects service advises that the provision of gypsy/traveller sites should not be treated as representing housing or tourism development and the policy provisions of Policy DC1 for such development types should not be applied in this instance. It would be appropriate for any such site to be in a countryside area rather than within the boundary of a settlement as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

The draft Proposed Local Development Plan approved (with amendments) at the Council meeting of 17 November 2015 does not allocate any sites for such use but does propose a criteria based policy for determining applications for them. This provides that

applications will be assessed in relation to the accessibility of the site, proximity to community facilities and schools, impact on built and natural heritage and nearby uses, its having adequate levels of amenity and impacts on neighbouring amenity and its being on land not specifically allocated for other purposes. Whilst this policy has limited weight at this stage, its provisions reflect material planning considerations embodied in existing guidance and development plan policies.

Other than the above reference in Scottish Planning Policy: June 2014 there is no specific national planning policy guidance on the issue of gypsy/traveller site provision. In the absence of detailed planning guidance at national level and planning policies at local level recent planning appeal cases have confirmed that the following advice may be accorded weight when assessing such planning proposals:

* The Secretary of State's Advisory Committee on Scotland's Travelling People (ACSTP) 'Guidance Notes on Site Provision for Travelling People': October 1997, and;

* The ACSTP's Ninth and Final Report: 1998-1999 (adopted by the Scottish Executive in November 2000).

The ACSTP 'Guidance Notes on Site Provision for Travelling People': October 1997 states that applications for planning permission in respect of private gypsy/traveller sites should be sympathetically considered, noting that the principle task continues to be the provision of long stay sites. It notes that there is no such thing as the perfect location for gypsy/traveller sites with compromise being necessary to identify suitable locations. In this it sets out criteria which should be addressed when considering proposals for gypsy/traveller sites including, (i) sites being accessible to a main road network, (ii) sites shouldn't be too remote to allow the possibility of social integration, (iii) sites should be suitably screened or have the potential for screening, (iv) the location of sites should offer some prospect for gypsy/travellers to seek work opportunities in the area, (v) sites should be located within reasonable proximity to schools, and (vi) sites should be within reasonable proximity to as broad a range as possible of community facilities.

The ACSTP's Ninth and Final Report: 1998-1999 advises that applications by gypsy/travellers to develop a small site with one or two ancillary buildings should be treated as 'agricultural' as opposed to 'residential' development, in the recognition that the type of accommodation required and the types of vehicles involved are more akin to that form of development. It also advises that caravans are relatively small so a second caravan may be necessary to allow privacy for the elderly, teenagers and young people who still reside with their families and that the caravans of visitors who stay overnight, for a break or during family illness, will need to be accommodated.

The application site is not within a settlement. Nor is the adjacent property of Muirpark Cottage part of a settlement as designated by the East Lothian Local Plan 2008.

The site is accessed from the A199 public road and as such has easy access and connectivity to the surrounding road network. There are also good public transport links close to the site.

In being only some 330 metres east of Tranent and with good transport links to other towns and villages in East Lothian as well as Edinburgh, the site allows the possibility of social integration, offers prospects for gypsy/travellers to seek work opportunities in the area and is located within reasonable proximity to schools and community facilities.

The applicant's supporting statement advises that as a general guide a gypsy/traveller site must be capable of accommodating an amenity building, sufficient pitches for an

extended family, a large trailer and touring caravan(s), parking spaces and other associated hardstanding areas. The sizes of the pitches and number of caravans depends on the size of individual families and their particular needs.

By being enclosed on its north side by a high roadside boundary wall which extends along other parts of the east and west sides of the site and otherwise by high fencing, the site is well contained within its landscape setting. The interior of the site is mostly hidden from public views from the A199 public road with only the very top of the roofs of the caravans and the roof of the amenity building being visible and which are seen in relation to the built form of the house of Muirpark Cottage and thus not in isolation in their countryside location.

Four gypsy/traveller pitches have been formed on the application site. It is the intention that each pitch could accommodate 3 caravans sited on it as well as a parking area. The applicant's supporting statement advises members of an extended family live together and thus an average family site must be capable of accommodating sufficient pitches for the extended family including a large principle caravan and further touring caravan(s) as well as an amenity building. The ACSTP's Ninth and Final Report: 1998-1999 recognises these necessities in the development of small gypsy/traveller sites.

In all of the above, and given the absence of specific planning policy relating to the provision of gypsy/traveller sites in the development plan, the use of the site as 4 individual permanent gypsy/traveller pitches is considered consistent with the recommendations for site selection and criteria as set out in The Secretary of State's Advisory Committee on Scotland's Travelling People (ACSTP) 'Guidance Notes on Site Provision for Travelling People': October 1997 and the ACSTP's Ninth and Final Report: 1998-1999 and thus in such circumstance can be supported, consistent with Scottish Planning Policy: June 2014. However to reflect the specialised nature of the proposal a condition should be imposed on a grant of planning permission to restrict occupation of each pitch to a single declared gypsy/traveller household.

The small part of the site which would also be used for Class 6 storage and distribution use would be used in conjunction with the use of the other part of the application site for 4 individual permanent gypsy/traveller pitches as part of the applicant's business. Due to the small scale of this use and the well contained location of the site the Class 6 storage and distribution use is of an appropriate scale and character for its proposed location in the countryside, consistent with Policy DC1 of the adopted East Lothian Local Plan 2008.

The site is well contained within its landscape setting due to the enclosure of the site. Thus the caravans, the area of land to be used for Class 6 storage and distribution use, the existing amenity block for use as shower/toilet and kitchen facilities, the proposed bin store, fencing, walls, gates and gate piers and the hardstanding areas and lighting that would facilitate the use of the land as 4 individual permanent gypsy/traveller pitches would be contained and would not harmfully impact on their countryside environment. In their location, neither individually nor cumulatively do they or would they appear harmfully prominent, intrusive, exposed or incongruous in their landscape setting.

On these design considerations the proposals are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies DC1 Part 5 and DP2 of the adopted East Lothian Local Plan 2008.

The Council's Roads Services advises that in the interests of road safety (i) the site vehicular access from the A199 should be widened to a minimum width of 6m over the first 15m to accommodate the two way movement of vehicles, (ii) kerb radii at the access junction with the A199 should be a minimum of 6m, and (iii) the lights mounted on the

east elevation of the wall that encloses part of the east boundary of the site be removed as they give the appearance of oncoming vehicles.

Subject to the above recommended control which can be imposed as conditions on a grant of planning permission, Roads Services are satisfied that the site is capable of being safely accessed with no resultant consequences for road safety and that sufficient parking can be provided within the site. Consequently the proposals are consistent with Policies DP22 and T2 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Manager raises no objection to the application, being satisfied that the site is being used without harm to the amenity of the countryside area in which it is located, or to any nearby residential property.

As the site lies within an identified Coal Development High Risk Area, the Coal Authority has been consulted on the application. The Coal Authority advises that having reviewed the applicant's submitted Coal Mining Risk Assessment Report they confirm that it demonstrates that the application site is safe and stable and that there is no risk to surface stability. On this basis the Coal Authority raises no objection to the application.

On request from the Scottish Environment Protection Agency (SEPA) the applicant has submitted a Site Drainage Report. SEPA have reviewed the report and are satisfied that the site can be satisfactorily drained and they therefore raise no objection to the application.

Scottish Water have been consulted on the application but no response has been received.

CONDITIONS:

- 1 Each of the four individual permanent gypsy/traveller pitches hereby approved shall only be occupied by a single declared gypsy/traveller household.

Reason:

To restrict the extent of use of the pitches to that applied for and to reflect the specialised nature of the gypsy/traveller site proposal.

- 2 Within one month of the date of this grant of planning permission the lights mounted on the east elevation of the wall that encloses part of the east boundary of the site shall be removed.

Reason:

In the interests of road safety.

- 3 Within three months of the date of this grant of planning permission the site vehicular access from the A199 shall be widened to a minimum width of 6 metres over its first 15 metres to accommodate the two way movement of vehicles.

Reason:

In the interests of road safety.

- 4 Within three months of the date of this grant of planning permission the site access junction with the A199 shall be altered such that kerb radii into the access shall be a minimum of 6 metres.

Reason:

In the interests of road safety.

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