



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

**TUESDAY 5 JANUARY 2016  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

Councillor N Hampshire (Convener)  
Councillor D Berry  
Provost L Broun-Lindsay  
Councillor S Brown  
Councillor J Caldwell  
Councillor S Currie  
Councillor J Gillies  
Councillor J Goodfellow  
Councillor D Grant  
Councillor P MacKenzie  
Councillor K McLeod  
Councillor J McMillan  
Councillor J McNeil  
Councillor J Williamson

**Council Officials Present:**

Ms M Ferguson, Service Manager – Legal and Procurement  
Mr I McFarlane, Service Manager – Planning  
Ms C Molloy, Legal Team Leader  
Mr K Dingwall, Principal Planner  
Mr M Greenshields, Transportation Planning Officer  
Ms P Bristow, Communications Officer

**Clerk:**

Ms A Smith

**Visitors Present:**

Item 1 – Mr D Jinks  
Item 2 – Mr A Seath, Mr D Davis

**Apologies:**

Councillor T Day  
Councillor A Forrest  
Councillor W Innes  
Councillor T Trotter

**Declarations of Interest:**

None

**1. PLANNING APPLICATION NO. 15/00686/PM: ERECTION OF 97 HOUSES AND ASSOCIATED WORKS AT LAND TO THE NORTH OF GATESIDE ROAD, HADDINGTON**

A report was submitted in relation to Planning Application No. 15/00686/PM. Iain McFarlane, Planning Service Manger, presented the report, summarising the key points. The report recommendation was to grant consent

Mr McFarlane responded to questions from Councillor Berry about an article in the local press regarding this application. He clarified that Haddington Community Council had not commented on this application. With regard to commercial provision, in relation to application 14/00219/PM and the adjacent site with planning permission for a supermarket, he stated that the relevant assessments had concluded that these would not unduly affect the town centre.

David Jinks, Development Planner with Persimmon Homes East Scotland, the applicant, summarised the details of the proposal. He informed Members that the proposed development largely constituted a redesign of layout and house types of the residential development approved in January 2015. The main reason for the revision was the shift in market conditions; there was demand at this location for larger properties and this new proposal would offer a wider range of house types. The 25% affordable housing provision would still apply. The revision would also provide an increase in onsite open space.

Mr Jinks responded to questions from Members. He provided details of the number of houses to be built per house type/size. He advised that the type and location of units allocated for affordable housing had still to be finalised and agreed with the Council. He clarified that the affordable housing units would be provided for sale not rent. Councillor Goodfellow remarked that the built environment in each of the county's towns was different and asked whether there would be any particular characteristics to show that this development was uniquely Haddington or indeed East Lothian. Mr Jinks advised that the main influence in that regard would be external finishes; this would be discussed with the Planning Case Officer.

Local Member Councillor McMillan welcomed the report and hoped that work on this development would commence shortly, as indicated in the report. Whilst it could be challenging to retain neighbourhood identity and community, taking a positive and welcoming attitude would make sure this new development was integrated into the town. The development would provide much needed housing for Haddington; he would be supporting the application.

Local Member Provost Broun-Lindsay agreed with the comments expressed by his colleague; he would also be supporting the application.

Councillor Currie stressed that it was important to make sure that the affordable housing units came forward. Infrastructure provision was crucial. He would be supporting the report recommendation.

Councillor Berry appreciated that the type of housing provision was driven by market conditions but had concerns that the balance was not always right. Communities needed to be integrated. He shared his colleague's concern about infrastructure; an overarching policy was required. He would be supporting the application.

Councillor MacKenzie made reference to East Lothian's rural landscape and historical style of houses. It was important to reflect this in new developments to provide a sense of community. He would be supporting the application.

Councillor Goodfellow remarked that his earlier concerns had been addressed by the applicant. He would be supporting the recommendation in the report.

The Convener brought the discussion to a close. He noted concerns expressed by Members about integrating new housing developments into existing communities; he highlighted the positive integration in Dunbar. He would be supporting the recommendation to grant planning permission as set out in the report.

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

For: 14

Against: 0

Abstentions: 0

### **Decision**

The Committee agreed to grant planning permission 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 be 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.

**2. PLANNING APPLICATION NO. 14/00860/P: 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) AT MUIRPARK STEADING, TRANENT**

A report was submitted in relation to Planning Application No. 14/00860/P. Mr McFarlane presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Mr McFarlane responded to questions from Members. He clarified that the retrospective part of the application formed the substantive part of the development. He advised that where someone self declared as a gypsy/traveller then, legally, they were deemed to be such. He confirmed the Council operated a gypsy/traveller site in Whitecraig, jointly with Midlothian Council. The Council was required to consider national guidance and planning policies in relation to this type of application which was reflected in the approach taken in the report. He clarified that the conditions applied to the Thurston Manor site and other touring caravan sites, to prevent them being used as permanent residences did not apply to this application, which was not for tourism/leisure use, but for permanent pitches for gypsy/traveller use.

Regarding road safety and pedestrian access, Mr McFarlane stated that Road Services had no concerns beyond those contained as conditions in the report. In relation to the business use element, the site layout plan showed clear delineation of this space. He added that if an applicant applied for Class 6 business use it was accepted as such and did not require further definition. In relation to Policy DC1, he advised that the key as regards this application was part 5, which dealt with the scale and impact of a development on the countryside. The assessment, in the report, was that the application would not have a significant visual impact. Regarding classification of usage he advised that Scottish Planning Policy referred, in its housing section, to the need of local authorities to consider gypsy/traveller sites, so in that sense it was regarded as residential use but clearly by its nature it was not a housing development so the new house considerations of Policy DC1 did not apply. He also clarified that the trees at the south west boundary of the site were not protected by a Tree Preservation Order so could potentially be removed.

Alan Seath, Planning Consultant, agent for the applicant, outlined the requirements of the gypsy/traveller population nationally and locally. There was a chronic shortage of suitable accommodation for this minority ethnic group. The situation however was changing and public bodies were now aware that greater action was needed. There were no designated sites in East Lothian apart from the site in Whitecraig. The applicant had taken positive steps to meet the needs of his extended family; he had cleared a derelict area, the site had been well constructed and was well managed. It was in close proximity to services. It met the criteria in the draft Proposed Local Development Plan and also met residency and business needs.

Councillor Grant asked why the applicant had started work without obtaining planning permission. Mr Seath, whilst not condoning the applicant's action, referred to the increased demand for sites by the gypsy/traveller community, reiterating that due to lack of action, throughout the country, some individuals had taken action themselves.

Mr Seath responded to questions from Councillor Berry. He confirmed that the applicant and his family were recognised as gypsy/travellers. Regarding alternative sites, he advised that because of the increase in gypsy/traveller numbers and the size of the applicant's extended family, many sites were not suitable. This site had become available and had been chosen because it met all the relevant criteria.

Councillor McMillan queried the process for gypsy/traveller communities to be involved in decisions about sites, as detailed in the report, noting that the applicant had decided on this site without any consultation. Mr Seath stated that the Scottish Government recognised the lack of action to date to cater for the needs of the gypsy/traveller community and was currently carrying out consultation. The aim was to create more ties with the official representative body for individual gypsy/traveller families. Work was also taking place to provide guidance to this community on the planning process and to try and encourage better engagement with local authorities.

Daniel Davis informed Members that he wished to make some general observations as the only adjacent neighbour to the site. He considered that the proposal would not have a negative visual impact; the caravans were barely visible over the walls. The site had undergone significant improvements and was well maintained. The applicant was trying to provide a safe base for his family; they were ideal, peaceable neighbours.

Local Member Councillor Grant indicated that he had brought this application forward due to the level of representations from the Tranent and Macmerry communities. Numerous constituents had also commented about lack of adherence to planning procedure. The Committee viewed retrospective applications unfavourably. He noted the fact that work had already started on site without permission did not debar the applicant from applying retrospectively but he felt however that it had been reckless to proceed without first contacting the Council and the Community Council. Given the lack of specific planning policy in the current Local Plan regarding gypsy/traveller site provision he disagreed with the report recommendation to grant consent. The site was not well connected to Tranent or Macmerry, the access to the site from the A199 and lack of footpath was also an issue. He would not be supporting this application.

Local Member Councillor Gillies indicated that he had the same concerns as those expressed by his colleague.

Local Member Councillor McLeod noted at the site visit that the site was well maintained however, the retrospective element of the application, which formed the largest part, was of concern. He would not be supporting the report recommendation.

Councillor Berry remarked that although sympathetic to the gypsy/traveller community, trying to make this development official after the event could not be condoned. The scale and impact was serious. He noted the high level of concern locally. If the application was approved a precedent could be set. This was not the right site. It had been chosen by the applicant; not the correct process according to the report. The application should be refused; it was development in the countryside and business use on the site, both contrary to Policy DC1.



Councillor Currie stated this was a significant, retrospective, application. The application should have been lodged prior to work being carried out on the site. There should have been consultation and discussion with the community and others. He took the views of Local Members and the Community Council very seriously. He did not support the application; a dangerous precedent could be set if approved.

Councillor Williamson disagreed with his colleagues. He appreciated that the application was retrospective but that in itself was not an issue as the Committee had dealt with, and approved, retrospective applications in the past. He would, on balance, be supporting the application.

Councillor MacKenzie stressed that this site was for the applicant's family only and would provide a secure place; the site was appropriate. The testimony from Mr Davis had been helpful. He would be supporting the application.

The Convener noted the investment put into the site by the applicant however the application was retrospective, which was problematic. There was a need for gypsy/traveller sites in East Lothian but there was a process to be followed; consultation was part of that process. Gypsy/traveller communities should be involved in decisions about sites, as referenced in the report, but sites should not be pre-selected. He also had concerns about safety of the A199 access given the lack of a footpath on that side of the road. He would not be supporting this application.

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

For: 4

Against: 10

Abstentions: 0

### **Decision**

The Committee agreed to refuse planning permission. Mr McFarlane outlined the proposed reasons for refusal in line with Members' comments:

- Business use of the site, contrary to Policy DC1
- Site not well connected to Tranent or Macmerry
- A199 access/crossing/pedestrian road safety concerns
- Scale and impact of the proposal
- Retrospective application
- Protection of trees

Mr McFarlane advised Members that a retrospective application was not in itself a competent reason for refusal neither was the issue of the trees as they were not protected by a TPO but could be protected by a condition of a grant of planning permission. The Committee agreed that the Convener, Local Members and Planning Service Manager would consider and confirm the reasons for refusal.

The Committee also agreed that the applicant would have 3 months from the date of decision for compliance before enforcement action would be taken, reflecting the 3 month time period for submitting an appeal to the Scottish Ministers.

***Post meeting***

The reasons for refusal were subsequently confirmed as follows:

1. In that the development includes gypsy/traveller residential use with no agricultural, horticultural, forestry or other established business use to justify a direct operational requirement for an on-site residential presence it is contrary to parts 1 and 4 of Policy DC1 of the adopted East Lothian Local Plan 2008.
2. In that the development includes Class 6 business use of a scale and character not appropriate to this countryside location it is contrary to Policy DC1 of the adopted East Lothian Local Plan 2008.
3. The gypsy/traveller use generates additional pedestrian traffic to and from the site, resulting in additional pedestrians requiring to cross the A199 public road to the existing footpath, with a consequent hazard to road safety.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee