

PLANNING COMMITTEE

19 APRIL 2016

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

TUESDAY 1 MARCH 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 (Items 1 & 2)
Councillor J Caldwell
Councillor S Currie
Councillor T Day
Councillor A Forrest
Councillor J Gillies
Councillor J Goodfellow
Councillor D Grant (Items 1 & 3)
Councillor W Innes
Councillor P MacKenzie (Items 1 & 2)
Councillor K McLeod
Councillor J McMillan
Councillor T Trotter

Council Officials Present:

Ms M Ferguson, Service Manager – Legal and Procurement
Mr D Small, Director of Health & Social Care Partnership
Mr K Dingwall, Principal Planner
Mr M Greenshields, Transportation Planning Officer
Ms J Ogden-Smith, Communications Officer

Clerk:

Ms F Currie

Visitors Present:

Item 2 – Mr A Milne, Mr D Marwick, Mr I Lamb and Ms H Wood

Apologies:

Councillor J McNeil
Councillor J Williamson

Declarations of Interest:

Councillor Grant declared an interest for Item 2 as a remunerated non-executive director of NHS Lothian and said he would leave the Chamber during consideration of the application.

Councillors McMillan, McLeod and Goodfellow also declared interests for Item 2 but these were non-financial and they considered that there was therefore no requirement for them to leave the Chamber during this item.

1. MINUTES FOR APPROVAL

The minutes of the meeting of the Planning Committee of 2 February 2016 were approved.

2. PLANNING APPLICATION NO. 15/00824/PM: ERECTION OF COMMUNITY HOSPITAL WITH ANCILLARY RETAIL, CAFE, PARKING AND ASSOCIATED WORKS AT ROODLANDS GENERAL HOSPITAL, HOSPITAL ROAD, HADDINGTON

A report was submitted in relation to Planning Application 15/00824/PM. Keith Dingwall, Principal Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Andrew Milne and Helen Wood, on behalf of the applicant NHS Lothian, provided a brief summary of the proposals which included a short, fly-through video presentation. They explained the phasing, demolition and new build, access arrangements for cars, pedestrians and public transport, the internal layout of the hospital and the plans for repatriation of services and patients to East Lothian. Mr Milne, Ms Wood and Ian Lamb responded to a number of questions from Members regarding these and other issues.

A number of concerns were expressed over the viability and safety of using the existing junction at Alderston Road. Marshall Greenshields, Transportation Planning Officer, and Mr Lamb advised Members that surveys had been carried out and the proposed improvements to the junction, including changes to the speed limit and layout, should address these issues. Mr Lamb confirmed that the situation would continue to be monitored as the site developed.

In response to questions around service provision, David Small, Director of Health & Social Care Partnership, advised that the Scottish Ambulance Service had chosen not to move to the new site and recent bed, patient and demand modelling suggested that, at present, there was no need for NHS elderly care beds or a minor injuries clinic in the new facility.

Local Member Councillor Trotter welcomed the application as a huge step forward for the local community. He was satisfied that the traffic concerns raised would be addressed and he would be supporting the application.

Local Member Provost Broun-Lindsay commented on the well thought out proposals to maintain existing services. He acknowledged the concerns over traffic and the absence of a minor injuries clinic but accepted the applicant's assurances that these issues would be kept under review. He was happy to support the application.

Local Member Councillor McMillan also welcomed the application but remained concerned about traffic management. He was grateful to officers and the applicant for their assurances and he would be supporting the application despite his lingering doubts regarding safety.

Councillor Currie commended the application referring to the extensive consultation process and the conditions listed in the proposed consent. He said that it would be good for the community and for health services in East Lothian and was worthy of members' support.

Councillor MacKenzie said that the design and layout of the building would contribute a sense of health and wellbeing and would be of benefit to the whole of East Lothian.

Councillor Berry welcomed the application while voicing similar reservations to his colleagues over site access and the minor injuries clinic. He also expressed disappointment over the lack of shared services but said he would support the application nevertheless.

Councillor Innes said this was an important moment and he was delighted to see progress on the new hospital. He was confident that the access issues could be addressed over time and he urged all Members to support the application.

Councillor Goodfellow expressed his delight that the scheme had finally come to fruition despite what he termed unnecessary delays and interference over finance. Although disappointed there would be no blue light egress from the site, he supported the application.

The Convener expressed his disappointment that the proposals did not include a minor injuries clinic. In his view, this would disadvantage many people in the east of the county. However, he would be supporting the recommendation to grant planning permission as set out in the report. He moved to the vote on the report recommendation (to grant consent):

For: 15
Against: 0
Abstentions: 0

Decision

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

- 1 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 height of the proposed hospital building and ancillary service buildings 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 A schedule of materials and finishes and samples of such finishes for all components of the development, including ground surfaces and boundary enclosures shall be submitted to and approved by the Planning Authority prior to the material and finishes being used in the development. The materials and finishes used in the development shall accord with the schedule and samples of them so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area.

- 3 No development shall take place until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work on the site of the proposed development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 4 Prior to the commencement of development, full details of the finalised SUDS scheme shall be submitted to and approved in writing by the Planning Authority, following consultation with SEPA. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure adequate protection of the water environment from surface water run-off.

- 5 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.

- 6 No development shall take place on site until temporary protective fencing in accordance with section 2.5 of the Arboricultural Implication Assessment and Tree Protection Proposals by Donald Rodger dated Jan 2016 and docketed to this planning permission has been installed and approved by the arboriculturalist and confirmed in writing by the Planning Authority. The position of this fencing must be as indicated on the "Tree Proposals and Protection" Plan with drawing number 16471 in the Arboricultural Implication Assessment and Tree Protection Proposals by Donald Rodger dated Jan 2016 docketed to this planning permission.

All weather notices should 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 RPA. 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.

A site plan detailing the location of the temporary protective fencing together with an illustration of the fencing as per figure 2 of BS5837:2012 and a note stating: 'tree protection zone – to be fenced prior to any construction works commencing on site in accordance with fig. 2 of BS5837:2012 and section 2.5 of the Arboricultural Implication Assessment and Tree Protection Proposals' shall be made available to the Planning Authority and to the site contractor prior to the commencement of development to ensure that all parties are aware of the requirement for a construction exclusion zone around the trees.

Notwithstanding that which is detailed on drawings docketed to this planning permission there shall be no encroachment of the car park surfacing, including the pedestrian path if it is to be provided on the west side of the car park, within the tree protection area of the tree identified as tree 233 in the Arboricultural Implication Assessment and Tree Protection Proposals by Donald Rodger dated Jan 2016 and docketed to this planning permission.

Reason:

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

- 7 All new planting detailed in the 'Soft Works Planting Plan' with ref 1362 02 rev B and 'Soft Works Specification and Schedule' with ref. 1362 03 rev B docketed to this planning permission shall be carried out in the first planting season following the completion of the development and any plants or trees 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 species and final size, 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.

- 8 No development shall take place on site until a person who, through relevant education, training and experience, has gained recognised qualifications and expertise in the field of trees in relation to construction, has been employed by the developer to monitor any works in close proximity of trees on the site including the installation of the tree protection fencing and construction of the woodland walk path to ensure that these are carried out to the recommendations and specifications contained within the Arboricultural Implication Assessment and Tree Protection Proposals by Donald Rodger dated Jan

2016. All tree work should be carried out in accordance with BS3998: 1989 'Recommendations for Tree Work' and must be approved in writing by the Planning Authority before work is carried out.

Reason:

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

- 9 Following each phase of demolition and clearance, an initial assessment shall be made of the ground conditions to determine whether there is the likelihood of any potential contamination issues. Should this assessment show the presence of contamination then a targeted site investigation and risk assessment shall be carried out to quantify the potential risk from this contamination and allow the development (and installation) of suitable remedial measures. Any remedial measures undertaken shall be suitably validated, and a validation report shall be submitted to and approved by the Planning Authority prior to the occupation of any buildings within the phase of construction concerned.

The presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall immediately be brought to the attention of the Planning Authority to investigate whether further works shall be required to be carried out to determine if any additional remedial measures are required. Any such remedial measures shall be fully implemented prior to any use being made of the buildings, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure that the site is clear of contamination.

- 10 No deliveries shall be permitted within the Service Yard of the hospital outwith the hours of 0500 to 2300 hours on any day of the week.

Reason:

In the interest of safeguarding the amenity of the occupiers of neighbouring residential properties.

- 11 'Plant and machinery shall be designed, selected and located such that noise associated with their operation does not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any neighbouring residential property. All measurements to be made with windows open at least 50mm.'

Reason:

In the interests of protecting the amenity of nearby properties.

- 12 Prior to the commencement of development a detailed phasing plan for all the construction phases of the development hereby approved and a detailed Construction Management Plan (CMP) to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority. The Management Plan shall include details on the expected duration of each phase of construction works; construction access routes for each phase; demonstrate onsite turning/manoeuvring space at each stage – i.e. within compounds/drop off areas; shall include dilapidation surveys of all public roads around the perimeter of the site and shall include details of any delivery/access time restrictions which may be required depending on access points to the site.

The CMP shall also recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work and delivery routes. It shall be detailed in the CMP that no loading/unloading will be permitted from any of the public roads around the perimeter of the site.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 13 Prior to the commencement of development, details, including a timetable for their implementation, showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

i) Way finding signage to be provided around the site and externally within Haddington to show active travel route to the site as well as for those driving;

ii) Dropped kerb pedestrian crossings to be provided at positions to be agreed with the Planning Authority on Alderston Road from the junction with West Road (B6471) up to the main access to the site from the west side at Alderston Gardens;

iii) Full details of all the proposed offsite works, including construction specifications, signage etc shall be submitted for approval. This shall include the "Way Finding" signage described above;

iv) The outcomes of the initial Quality and Safety Audits shall be implemented (including the designers response) through the detailed design stages and the full audit processes (i.e. Safety Audit and Quality Audit) completed through the design and implementation stages – including post construction/opening.

The hospital development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road and pedestrian safety.

14 The following transportation requirements shall be carried out in accordance with the detailed phasing plan to be approved by the Planning Authority as required by Condition 12 of this planning permission and the details within the transport statement (Technical Note (342466 TN01): East Lothian Community Hospital - Off Site Transportation Works) docketed to this planning permission:

(i). The footway on the east side of Alderston Road shall be widened to 3 metres wide as shown and this shall include the relocation of the existing lighting columns, road signs etc, to the back of the footway. This shall be sign posted as a shared cycle pedestrian route.

(ii). The traffic calming at the site access/Alderson Gardens shall be laid out as shown.

(iii). The shared cycle pedestrian route shall continue into the site and allow a through connection past the building frontage to Hospital Road.

(iv). The existing footway on the east side of Alderston Road from Haldane Avenue shall continue southwards past the existing road closure up to the bridge parapet on Alderston Road (railway walk bridge).

All as detailed on "Access for Alderston Road - 342466-MMD-00-C-DR-XX-0001 revision P2" contained within the transport statement (Technical Note (342466 TN01): East Lothian Community Hospital - Off Site Transportation Works).

(v). The junction shall be laid out as shown and shall also take account of the findings of the initial stage 1 Safety Audit/Quality Audit and the subsequent processes as laid out in condition 2 above.

(vi). The road markings on the A199 shall be completely renewed to include "red" coloured hatching in the central ghost island area and "purple" coloured markings on the cycle lanes. Details shall be submitted for approval. This is to make the junction more conspicuous to all users. The extents of these works shall be approximately 250 metres to the west of Alderston Road and 200 metres to the east of Alderston Road.

(vii). The 40 mph speed limit shall be extended westwards as shown to include the additional street lighting columns. The extension to the speed limit shall be promoted by the applicant.

All as detailed in A199 Haldane Avenue/Alderston Road Junction - 342466-MMD-00-C-DR-XX-0002 revision P2 contained within the transport statement (Technical Note (342466 TN01): East Lothian Community Hospital - Off Site Transportation Works).

(viii). A 2 metre wide footway shall be provided on the east side of Alderston Road from the railway walk bridge northwards to the connection with the proposed 3 metre wide cycle route include dropped kerb pedestrian connections. This shall be approximately 140 linear metres. Details shall be submitted for approval.

(ix). On the new 2 metre wide footway, the existing lighting columns shall be moved to the rear of the footway. In addition a post and wire fence, or similar approved boundary treatment, shall be provided at the back edge of the footway.

(x). On the western side of Alderston Road coloured/textured surfacing shall be provided over the existing pedestrian reservation area from St Lawrence northwards to the railway access (approximately 110 linear metres).

(xi). Coloured/textured surfacing shall also be provided over the full width of the road/carriageway over the extents of the railway walk bridge between the parapet walls (approximately 22 linear metres).

All as detailed on Proposed Footway/Cyclepath along Alderston Road - MMD-342466-C-DR-00-XX-0105 revision P3 contained within the transport statement (Technical Note (342466 TN01): East Lothian Community Hospital - Off Site Transportation Works).

(xii). The proposed footway and Zebra Crossing (or other approved controlled pedestrian crossing) shall be designed in accordance with and fully comply with Local Transport Note 1/95 & 2/95 "The Assessment of Pedestrian Crossings" and "The Design of Pedestrian Crossings".

(xiii). The design shall also take account of the findings of the initial stage 1 Safety Audit/Quality Audit and the subsequent processes. This to include the careful consideration of the transition to the internal shared Cycle/Pedestrian shared surface to prevent cyclists cycling out onto Hospital Road. This should also take account of the proximity of the proposed crossing with Davidson Terrace.

(xiv). The final design shall include a vehicle tracking/swept path assessment to include the Large Design Rigid and Articulated Vehicle - in accordance with the Freight Transport Associations - Designing for Deliveries - document.

All as detailed in the Proposed Footway along Hospital Road - MMD-342466-C-DR-00-XX-0124 revision P2 contained within the transport statement (Technical Note (342466 TN01): East Lothian Community Hospital - Off Site Transportation Works).

Reason:

In the interests of road and pedestrian safety.

- 15 The car parking and hard/soft landscaping hereby approved shall be laid out and delivered in accordance with the detailed phasing plan to be approved by the Planning Authority as required by Condition 12 of this planning permission and the details shown in drawing numbers 1362/02 revision B and KD-Z(94)XXXX-001 Revision 16 to ensure adequate access for pedestrian/cyclists and car parking provision and the main shared cycle/pedestrian route running through the site from Alderston Road to Hospital Road shall be provided and fully open to the general public and enable access at all times to and through the site in order to promote this is as an active travel corridor. Lighting shall also be provided to enable access at all times in accordance with details to be submitted and approved by the Planning Authority prior to any use being made of the hospital under the relevant phase in accordance with the detailed phasing plan to be approved by the Planning Authority as required by Condition 12 of this planning permission.

Reason:

In the interests of road and pedestrian safety.

- 16 The staff cycle parking store for 25 cycles hereby approved shall be operational on site prior to the hospital opening for use. Notwithstanding that which is shown on the docketed drawings, the 14 Sheffield style racks for visitors will be provided under a covered shelter in accordance with details to be submitted to and approved in writing by the Planning Authority prior to the hospital opening for use. The approved cycle parking shall be installed on site prior to the hospital opening for use.

Reason:

To reduce dependence on the private car in the interest of the amenity of the area.

- 17 A Green Travel Plan shall be submitted to and approved by the Planning Authority prior to the commencement of use of the hospital hereby approved. The Green Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site for staff, patients and visitors to the hospital and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

The Travel Plan shall thereafter be implemented in accordance with the details so approved.

Reason:

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

- 18 No use shall be made of the hospital unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the commencement of use of the hospital building unless otherwise approved by the Planning Authority.

Reason:

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

Sederunt: Councillors Brown and MacKenzie left the meeting. Councillor Grant rejoined the meeting.

3. PLANNING APPLICATION NO. 15/00048/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 09/00486/OUT – ERECTION OF 240 HOUSES AND ASSOCIATED WORKS AT LAND TO WEST OF BRODIE ROAD, HALLHILL, DUNBAR

A report was submitted in relation to Planning Application 15/00048/AMM. Mr Dingwall presented the report, summarising the key points. The report recommendation was to grant consent.

Mr Greenshields responded to questions from Councillor Berry regarding vehicular and pedestrian access and concerns around safety. He advised that these issues had been reviewed and discussed by Members during their consideration of the original planning application and he referred to improvements which had been made to site access.

The Convenor reminded Councillor Berry that the original application had been approved despite concerns expressed at the time over access. Councillor Berry acknowledged this but wished to note his continuing misgivings regarding traffic and pedestrian safety.

Councillor Goodfellow welcomed the application noting the mix of housing types and, in particular, the 131 affordable housing units. He hoped that similar proposals would come forward for his own ward.

The Convener referred to the continuing need for housing in Dunbar. He acknowledged the pressure being placed on existing infrastructure and said that this would have to be addressed as new developments were brought forward. 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 that approval of matters specified in conditions for the proposed housing development be granted subject to the following conditions:

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

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

- 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 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions, a detailed specification of all external finishes of the houses of the proposed development 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.

Reason:

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

- 3 Prior to the commencement of development details of the position and type of all boundary enclosures to be erected on the application site shall be submitted to and approved in advance by the Planning Authority. Development shall thereafter be carried out in full accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory appearance of the fencing in the interest of safeguarding the visual amenity of the area and to safeguard the privacy and amenity of residential properties nearby.

- 4 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of : the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme of landscaping shall be based on the 'Hallhill Landscape Strategy', which is docketed to planning permission in principle 09/00486/OUT and shall tie in with the neighbouring housing sites to provide continuity of design across the larger housing site. It shall include large tree species in communal central green spaces and corner sites, where space allows, to break up the built layout. It shall also include small fastigate tree species to street frontages and parking areas, with appropriate tree pit details including root barriers to protect service strips. The scheme shall also include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 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.

- 5 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces, and footpaths shall have been constructed on site, in accordance with the docketed drawings and the transportation conditions specified below. Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and flats 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 access and for off-street parking in the interests of road safety.

- 6 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.

- 7 The residential scheme of development shall comply with the following transportation requirements:
- (i) all path connections from a zone under construction to existing pedestrian/cycle routes shall be constructed to an adoptable standard before the occupation of any of the residential units of the particular zone;
 - (ii) driveways shall have minimum dimensions of 6 metres by 2.5 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length;

(iii) within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

(iv) all prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay;

(v) all carriageway, footway/footpath and cycleway/cyclepath connections must meet with existing links in adjacent sites, both horizontally and vertically;

(vi) vehicle accesses to private parking areas (i.e. other than driveways) shall be via reinforced footway crossings and shall have adequate width to enable two way movement of vehicles at the accesses;

(vii) the proposed footway connection running to the north of plots 221 to 232 shall be provided to connect to the, now existing, link through Lochend Woods. This connection shall be in place and lit and be provided prior to the occupation of any of the 240 houses. Details of the footway connection shall be submitted to and approved by the Planning Authority in advance of its provision;

(viii) bus shelters and bus stops shall be provided on the main infrastructure spine road leading north to south, in the positions indicated as 'bus stop' and 'futureproofed bus shelter location' on the docketed site layout plan, prior to the occupation of any of the houses in plots 1 to 134 and/ or plots 196 to 240. Details of the bus shelters and bus stops shall be submitted to and approved by the Planning Authority in advance of their provision;

(ix) an additional public visitors parking bay shall be formed next to plot 159. Details of the additional parking bay shall be submitted to and approved by the Planning Authority in advance of its formation; and

(x) proposed parking adjacent to prospectively public roads and contiguous with the carriageway surface shall only form public parking bays and must form part of the public road (therefore being available for all road users).

The residential development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road and pedestrian safety.

- 8 A Supplementary Construction Method Statement to expand on that already provided and controlled through planning permission in principle 09/00486/OUT shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Supplementary Construction Method Statement shall take account of routes to the site from the main access's onto Brodie Road and the A1.

The recommendations of the Supplementary Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 9 Prior to the commencement of the development hereby approved, details of the play area, including the equipment to be provided within it and a timetable for installation, shall be submitted to and approved in advance by the Planning Authority. The play area shall thereafter be installed in accordance with the details so approved.

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment.

- 10 Prior to any use being made of the residential units hereby approved for plots 152-155, any windows of those residential units serving noise sensitive rooms (living rooms and bedrooms) and facing towards the A1 trunk road shall be provided with 6/12/6 glazed units with acoustic trickle vents for ventilation purposes, unless otherwise approved in writing by the Planning Authority.

Reason:

In order to protect the privacy and amenity of the residential units approved for plots 152-155 of the housing development.

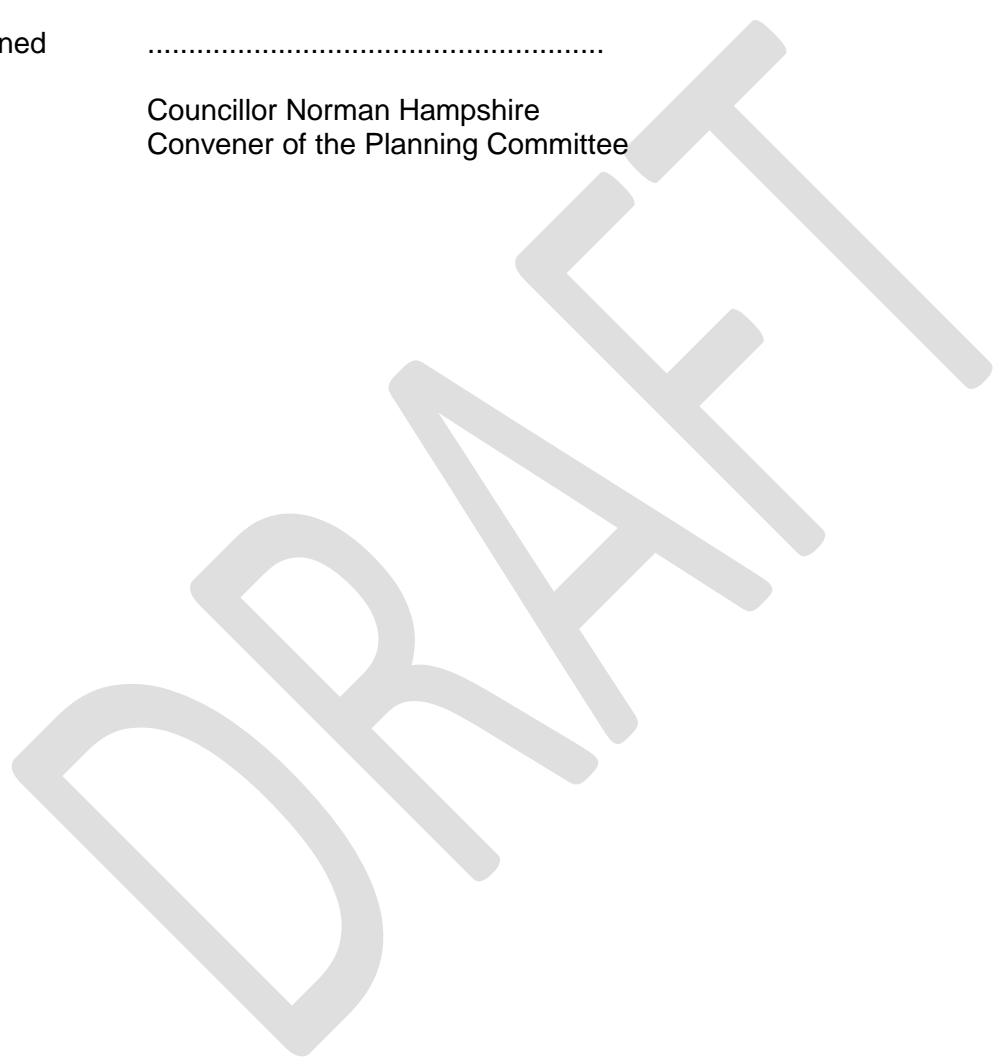
- 11 Unless otherwise approved in writing by the Planning Authority, no house shall be occupied until an acoustic barrier has been erected that runs along the entire length of the southern boundary of the application site. The details of the acoustic barrier shall be submitted to and approved by the Planning Authority prior to its erection.

Reason:

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

Signed

Councillor Norman Hampshire
Convener of the Planning Committee



REPORT TO: Planning Committee

MEETING DATE: Tuesday 19 April 2016

BY: Depute Chief Executive (Partnership and Services for Communities)

SUBJECT: Application for Planning Permission for Consideration

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Note - this application was called off the Scheme of Delegation List by Councillor Day for the following reason: This application has generated significant levels of public interest and debate; therefore I believe it should be considered by the Planning Committee.

Application No. **16/00068/P**

Proposal Construction of an anaerobic digester plant, combined heat and power plant, erection of buildings, formation of vehicular access and associated works

Location **Land At Standalane
Near Ballencrieff
East Lothian
EH32 0PH**

Applicant J Haig Hamilton & Sons

Per Wardell Armstrong LLP

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The application site is comprised of an area of agricultural land in a countryside location at Standalane, southwest of Ballencrieff. The main part of the site lies some 415 metres to the south of the B1377 Ballencrieff to Longniddry road, with a narrow strip of land stretching north towards the road.

To the east of the site is a linear stretch of mature woodland which varies in width from some 10 metres at its northern end, some 70 metres in the centre and some 40m wide at its southern end. Within the mature woodland are the derelict buildings of the former Standalane Steading. There are other areas of mature woodland nearby. The site is surrounded by undulating agricultural land.

The closest residential properties to the site are Garleton Farm's managers house some 425 metres to the southeast, the property of Cornhill some 509 metres to the northeast

and the properties within Lochhill Farm some 652 metres to the west.

Through separate application ref: 15/00902/P, planning permission is sought for alterations and extensions to the derelict agricultural buildings of the former Standalane Steading to form 1 house and associated works. Application 15/00902/P remains at this time undetermined but is a material consideration in the determination of this application.

Planning permission is sought through this application for the construction on the site of an anaerobic digester plant, combined heat and power plant (CHP), the erection of associated buildings, the formation of a vehicular access and for associated works. These include a weigh bridge, lighting columns, gates, fencing and hardstanding areas.

The proposed development would partly comprise of a centrally located tank farm consisting of:

- 3 digestate storage tanks each 36 metres in diameter with 12.5 metre high sides;
- 4 primary anaerobic digester tanks each 19 metres in diameter with 12 metre high sides and capped by a dome to a total height of some 14 metres high;
- 2 secondary anaerobic digester tanks each 19 metres in diameter with 12 metre high sides and capped by a dome to a total height of some 14 metres;
- 2 pasteurisation tanks each 5 metres in diameter with 4.5 metre high sides and capped by a dome to a total height of some 5.9 metres;
- 2 acid hydrolysis tanks each 10 metres in diameter with 12 metre high sides and capped by a dome to a total height of some 12.5 metres;
- 1 digestate buffer tank 12 metres in diameter with 12 metre high sides and capped by a dome to a total height of some 12.6 metres; and
- 1 liquid storage tank 8 metres in diameter with 10 metre high sides.

All of the tanks within the tank farm would be clad in green coloured sheet metal. The tank farm area would be enclosed within a concrete bund wall. The land within the bund wall would be sunk to an extent into the ground.

As the surrounding land is not even (but the base of the tank farm area would be), the sunk in ground level of the tank farm within the bund wall relative to the surrounding land varies between 0.5 metres and 2 metres below the surrounding land level.

The proposed bund wall of the tank farm would extend a varying height above the surrounding ground level from some 0.4 metres above it at its north side to 2.9 metres above it at its south side.

On the northeast side of the proposed tank farm it is proposed to form an area surfaced in crushed limestone on which would be erected:

- a circular gas storage tank some 17 metres in diameter and a maximum of 13.4 metres in height;
- a rectangular gas to grid unit comprising of associated infrastructure a maximum of some 10 metres high;
- a rectangular grid entry unit some 3 metres high by 5.2 metres wide; and
- a cylindrical flare stack some 8 metres high.

On the northwest side of the proposed tank farm would be formed a hardstanding area of concrete slab which would be used for feed stock storage. Also erected on the proposed concrete slab area would be:

- a rectangular dry feed storage building some 18.4 metres long by 8.6 metres

wide by 8 metres high which would be constructed of galvanised sheeting with a steel clad roof. Surrounding the building would be a feed stock area;

- ferric dosing equipment; and
- a small odour control building with associated stack some 13 metres high.

On the north side of the proposed tank farm it is proposed to form an area surfaced in crushed limestone surface on which would be erected:

- two buildings abutting one another in which would be located a CO₂ recovery room, a lab, a control room, an office, engineering rooms and workshops and an operations room as well as various plant equipment. The larger of the two buildings would be some 26.5 metres long by 14.5 metres wide by 7.5 metres high. The smaller of the two buildings would be some 16 metres long by 15 metres wide by 7.5 metres high. They would both have walls and pitched roofs constructed of green coloured plastisol steel cladding;
- gas cleaning equipment comprised of pieces of plant the tallest of which would 7 metres high;
- a transformer and intake sub;
- a CHP engine with a stack some 12.5 metres high;
- a CO₂ storage area;
- propane storage tanks;
- a bicycle shelter;
- a car parking area; and
- a weighbridge.

A 2 metre high green coloured metal mesh fence would be erected around three of the plant compounds. Around the perimeter of the application site would be erected a 1.1 metre high post and wire fence. Also, ten 4 metre high lighting columns would be erected within the site.

Access to the site would be taken by way of the formation of a new vehicular access from the B1377 road. From this proposed new vehicular access, an access road would be formed leading to the anaerobic digester plant. The proposed access road would be surfaced in tarmac for its first 68 metres and thereafter would be surfaced in crushed limestone. A set of gates and an intercom system would be erected on the access road some 42 metres south from the new vehicular access junction with the B1377 road.

In the applicant's submitted planning assessment it is stated that the proposed anaerobic digester plant uses microbes to breakdown crops, referred to as "feedstock". The main source of the feedstock would be locally grown whole crop rye, potatoes and energy beet supplemented by a mix of locally sourced pot ale syrup and grains. This produce would be sourced locally from local farmers and brewers. The feedstock would not include any animal by-products or waste and would not include food waste. It is anticipated that the proposed anaerobic digester plant would process a total of some 62,724 tonnes of feedstock per year when fully operational. The applicant's agent confirms that feedstock would be stored on farms away from the application site and delivered as required. Feedstock would be unloaded and fed into the digester plant within the feedstock area identified in the planning application drawings as Area 3.

The anaerobic digestion process produces gas which would be cleaned and conditioned prior to injection into the local gas network. The combined heat and power plant within the facility would use this created biogas to generate electricity and heat for the operational use of the plant with any surplus exported to the local grid. The gas producing process of the proposed anaerobic digester plant leaves left over digestates which are a liquid fertiliser and a solid called 'cake', both of which can be used as soil

conditioner. It is stated the proposed anaerobic digester plant would produce some 67,000 tonnes of liquid digestate and 17,000 tonnes of cake per year which would be returned to local farmers for use by them, replacing the need for expensive conventional fertilisers. An innovative part of proposed anaerobic digestion plant is the capture of CO₂ during the conversion of biogas to biomethane for export. The CO₂ is a natural constituent of biogas but is not normally economic to capture. The CO₂ captured will then be used in the food and drink industry displacing CO₂ produced from fossil fuels.

In the applicant's submitted non technical overview it is stated that the anaerobic digestion plant would produce in the region of 7.34MW of biogas which is used in part for electricity and heat for the plant but will also export electricity and biomethane to the respective local grids. Producing 700m³/hr of biomethane for export at 97% efficiency the plant would export around 67 GWh (i.e. 67million kWh) per year. Latest Ofgem figures suggest average household gas usage is 16,500kWh per year (10,000kWh for small houses). Therefore the plant would be capable of supplying gas for an equivalent of 4,100 – 6,700 homes per year. Adding in electricity export from site, the site could be capable of generating sufficient energy for an equivalent of more than 7,000 homes per year.

It is stated that the site would be manned from 8.00am – 6.00pm Monday to Friday and 8.00am – 1.30pm on Saturdays. It is anticipated that the site would receive deliveries of feedstock by HGV and by tractors with trailers between 8.00am – 4.30pm Monday to Friday and 8.30am – 12.30pm on Saturdays. During the winter months it is anticipated that there would be 24 to 27 vehicle movements per day and during the summer months there would be up to 53 vehicle movements per day (a movement equates to one vehicle entering the site or leaving the site, thus one vehicle entering and leaving the site equates to 2 movements). The movements have been calculated on the basis that 60% of rye would be delivered by HGV and 40% would be delivered by tractor and trailer, and that 100% of beet would be delivered by tractor and trailer. Movements would comprise delivery of feedstock into the site and the transportation of digestate out of the site to surrounding farms. The feedstock would be stored remotely and delivered as and when required.

The applicant's agent confirms that the submitted Transport Statement assessed a maximum of 58 vehicle movements per day during the summer months as a 10% contingency to demonstrate a robust assessment of the potential impact, which is explained within the first paragraph on the second page of the Transport Statement, where it states that a 10% factor has been applied. The Transport Statement concludes that the development proposals would have no material effect on the local road network considering the current levels of daily traffic fluctuation and low number of flows estimated from the site; a review of the development impact was undertaken during the busiest background peak period with results indicating there is no technical or road safety reason for restricting delivery hours.

The applicant's submitted non technical overview advises that the applicant has farmed in East Lothian for many years, currently farming 823 acres and employing 9 staff (including 2 seasonal workers). The family also own and run Hamilton Waste & Recycling Ltd which employs 68 staff and Drem landfill which employs 1 member of staff. They are an important employer in East Lothian and they continue to invest in the region. The proposed anaerobic digestion plant has been designed to take locally grown crops and to inject the gas into the local gas grid for use within East Lothian. This sustainable source of energy is therefore very local in its nature.

The applicant's non technical overview continues that the proposed anaerobic digestion plant is supported by many of the local farmers with over 30 so far having agreed to

supply crops. The main reason for this large farming community support is that they are under severe pressure from the supermarkets. The proposed anaerobic digestion plant provides an opportunity for local farmers to agree a price for local crops for a period of 5 years. That in turn means that they have certainty of income for a portion of their farm business which means they have the opportunity to raise finance and invest in their local farm business. The proposed anaerobic digestion plant is therefore a sustainable energy development that would benefit the local farming community as well as providing a renewable source of gas for East Lothian.

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 16 February 2016 the Council issued a formal screening opinion with the conclusion 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. 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.

Through separate application (ref: 15/00776/P) planning permission is sought by the same applicant for the construction of an anaerobic digester plant, combined heat and power plant, erection of buildings, formation of vehicular access and associated works on the application site. This application proposes a slightly different form of development than that proposed in separate application 15/00776/P. The main difference in the form of the development consists of the erection of a concrete bund wall that would enclose the proposed tank farm as an alternative for a previously proposed earth bund. This change was deemed by the Planning Authority to be a material variation to the proposed development such that it required the submission of a new application for planning permission.

Planning application 15/00776/P remains at this time undetermined.

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 1B (The Spatial Strategy: Development Principles) and 10 (Sustainable Energy Technologies) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP1 (Landscape and Streetscape Character), DP2 (Design), DP13 (Biodiversity and Development Sites) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Scottish Planning Policy: June 2014 and Planning Advice Note 51: Planning, Environmental Protection and Regulation (PAN51).

Scottish Planning Policy on renewable energy states that the commitment to increase the amount of electricity generated from renewable sources is a vital part of the response to climate change. In this, there is potential for communities and small businesses in

urban and rural areas to invest in ownership of renewable energy projects or to develop their own projects for local benefit. Planning authorities should support the development of a diverse range of renewable energy technologies whilst guiding development to appropriate locations. Factors relevant to the consideration of applications for planning permission will depend on the scale of the development and its relationship with the surrounding area, but are likely to include impact on the landscape, historic environment, natural heritage and water environment, amenity and communities, and any cumulative impacts that are likely to arise.

PAN51 advises that its central purpose is to support the existing policy on the role of the planning system in relation to the environmental protection regimes. In Paragraph 38 it states that planning decisions should be made on planning grounds in the public interest and should not be used to secure objectives achievable under other legislation or powers. However, the issues controlled under other legislation may be material considerations, for example the impact of a proposal on air or water quality, even though the regulation of emissions or discharges fall to be dealt with under other legislation. Likewise, when SEPA comments on a planning application and is also the environmental regulator, it should assess the land use aspects of the planning application to clarify whether, on the information available at the time, the proposed development is potentially capable of being consented under the [SEPA] licensing regime.

Also material to the determination of the application are the written representations received to it.

A total of 584 written representations have been received to this application. Of those, 342 object to the proposed development and 242 are in support of it.

The main grounds of objection can be summarised as follows:

- *the proposed development would lead to increased traffic from HGVs and tractor trailers on an already busy road leading to congestion and a major impact on the road network, all of which would constitute a road safety hazard to drivers, pedestrians and cyclists alike;
- *the proposed access to the site would be dangerous and be a road safety hazard;
- * the number of vehicle movement in the submitted Transport Statement are underestimated, misleading and questionable;
- * the additional traffic would be further compounded by traffic arising from future housing sites in the area;
- * the additional traffic would lead to increased emissions from the vehicles;
- * the proposed development would not be of an appropriate scale or character for a countryside location and thus would have a harmful adverse impact on the landscape and visual amenity of the area;
- * the proposed development would include structures of a type and scale entirely disproportionate for the site and the consequential visual and environmental impacts would be significant;
- * the proposed development would result in harmful air pollution, noise pollution, odour pollution and light pollution;
- * the proposed development would harm the residential amenity of nearby residential properties through loss of privacy and noise, odour and air pollution;
- * the proposed development would result in a loss of amenity to future occupiers of the house proposed in separate application 15/00902/P (Standalane Steading);
- * the proposed development would have a harmful impact on the biodiversity of the area including on protected species, wildlife and designated areas;
- * the proposed development would lead to flooding and problems with surface water drainage and thus would have a harmful impact on the local watercourses;

- * the proposed development would have a harmful impact on cultural heritage features and buildings in the area;
- * the proposed development would result in a loss of prime agricultural land which shouldn't be built on as the proposed development is not related to agriculture;
- * the proposed development should be located on an identified business or industrial site and not in the countryside;
- * the proposed development is contrary to Policies DC1 and DP2 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy;
- * the proposed development would have a harmful impact on East Lothian's tourism industry;
- * feedstock would have to be stored on or adjacent to the site;
- * the site area is greater than 2 hectares and thus should be classed as a major development;
- * the proposed development should be subject to Environmental Impact Assessment;
- * the trees to the east of site could be felled thus exposing the proposed development;
- * the proposed development could pose a risk to human health from potential explosions;
- * there are inaccuracies in the submitted information;
- * the gas pipe connection from the proposed anaerobic digester should be included in the planning application as it would constitute development – however if this work is done by a statutory undertaker under permitted development rights this only applies to land under their control or within a highway boundary;
- * the proposed development would suppress rental income for nearby residential properties;
- * the proposed development would have a harmful impact on the viability of existing businesses;
- * United Utilities have a bad environmental record;
- * there has been a lack of public consultation on the application;
- * if planning permission were to be granted there could be a prospect of future expansion;
- * if planning permission were to be granted it could set a precedent for allowing similar proposals;
- * the proposed development would have a harmful impact on house prices; and
- * work has already commenced on site.

It has been confirmed in writing by the applicant's agent that the site area is 1.98 hectares. A measurement taken from the application drawings confirms the site area as 1.91 hectares, slightly less than that stated by the applicant's agent.

As stated above it is the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of Environmental Impact Assessment.

The applicant's agent confirms that Scottish Gas Networks would undertake underground gas pipe works and therefore any future gas pipe connection work could be covered by statutory undertaker permitted development rights under the provisions of Part 13 of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and thus the pipe connection is not included as part of this planning application.

This application has been notified and advertised in accordance with statutory requirements.

If any future application was submitted to the Council for a further anaerobic digestion facility either as an expansion of this current proposal or a new facility in a different location such application(s) would be assessed on their own merits.

Whether or not the proposed development would suppress rental income for nearby residential properties or have an impact on house prices, or whether United Utilities have a bad environmental record are not material considerations in the determination of an application for planning permission.

From a site inspection by an Officer of the Council it is confirmed no works have commenced on the application site.

The main grounds of support for the application can be summarised as follows:

- * the proposed development would support the local farming community;
- * the proposed development would provide a much needed alternative extra market for farming produce;
- * the produced digestate would be a valuable addition to farmers looking to improve soil structure and fertility and would provide a green source of fertiliser produced at a lower cost;
- * local farming businesses can diversify into rotational crops;
- * with low world commodity process and high stocks the proposed development would be beneficial to East Lothian farmers;
- * there has been collaboration with over 30 local farmers;
- * the proposed development would provide a stable income stream;
- * businesses should be supported by the planning department;
- * the proposed development would lead to a reduction in road miles as many crops leaving local farms, whether grown for food or energy, currently travel long distances;
- * roads would be no busier than at present as all crops currently leave farms;
- * local employers and businesses have a right to use public roads;
- * there are few options to site such a facility as the proximity to a gas main of suitable pressure is a requirement and the application site has been specifically chosen because of the close proximity to a medium pressure gas grid connection as well as electricity and water;
- * the proposed development would create jobs for the local area;
- * the proposed development would inject money into the local economy;
- * the proposed development would not impact on scenery with limited landscape impact not dissimilar to agricultural buildings in East Lothian;
- * there would be less of a visual impact than wind turbines;
- * the proposed development would not lead to noise or odour issues;
- * as this is a countryside location there are already smells created from agricultural activities;
- * the Scottish Government encourage and support renewable energy projects;
- * green renewable sustainable energy is a good thing for Scotland;
- * anaerobic digestion is one of the best renewable energy technologies with steady energy production reducing the reliance on fossil fuels;
- * secure sources of renewable energy are needed as an alternative to wind; and
- * current housing demand upon East Lothian coupled with the closure of Cockenzie Power Station requires the provision of energy from a renewable source.

Since the statutory period to make representation to the application ended on 4 March 2016 a further 9 written representations have been received, however their content cannot be taken into consideration in the determination of this application. However it can be noted that of those 9 representations 4 object to the proposed development and 5 support it.

As a point of note, through separate application ref: 15/00776/P (currently pending consideration) a total of 631 written representations have been received to that

application. Of those, 561 object to that proposed development, 56 are in support of it and 12 neither object to or support it but give comment on it. The matters raised in the written representations are similar in their terms to the ones received to this current application and which are summarised above.

Gullane Area Community Council, as a consultee on the application, objects to the proposed development stating that they are aware that the application has caused considerable concern among many of their constituents, including those throughout the area who regularly use the B1377 road and residents in the Ballencrieff and Lochhill areas to the east and west of the site, and of Aberlady, which lies only three kilometres to the north of it. They are also aware that there was significant concern in the community about the earlier application, ref 15/00776/P, in respect of a similar development proposed for the same site. The Community Council have considered the documents lodged with this planning application and in particular the non-technical overview, the planning assessment, the transport statement and the additional information.

The Community Council advise their main concerns regarding the proposed development relate to the categories of:

1. Land Use;

The plant is to be located on prime agricultural land which is not zoned for development and if planning permission is granted it will result in the loss of some two hectares of such land. It is apparent from section 1 of the planning assessment lodged with the application that the operation of the plant will be effectively an industrial process and for this reason it would seem to be appropriate to locate it in an industrial environment and not in unspoilt countryside. While arguments are put forward in section 2 of the assessment to justify its location, we suggest that much of what is said there is speculative and general in nature and we do not have the impression that the applicant has seriously investigated alternative sites. For instance we have noted points from the following paragraphs, quotations from them being shown in italics:-

2.2.2 – the proposal will provide a renewable source of gas that will be used locally for heat. The proposal therefore falls within the renewable energy policy and is encouraged subject to relevant local considerations. These statements are not explained. Local considerations, such as the possible effect on the surrounding countryside and the road network (on which we comment fully below), seem to have been ignored.

2.3.2 – The emerging [renewable energy] policy [referred to in the SESplan strategic development plan (SDP) 2015 main issues report] is not yet detailed however it would be reasonable to state that the policy will support the principle of renewable development such as AD plants. This is purely speculative and a matter of opinion. The SDP is still at the consultative stage and there is no evidence that it will encourage industrial development of this kind or of this scale in unspoilt countryside. Indeed it includes various suggested safeguards against such development.

2.4.4 – as for paragraph 2.3.2 above. The comments are purely speculative and matters of unsupported opinion.

2.4.5 – With reference to the East Lothian Local Development Plan (LDP) 2008, which is still current pending adoption of the up to date local plan, Policy DC1 “Development in the Countryside and Undeveloped Coast”development will be acceptable where it is directly related to agriculture, horticulture, forestry and countryside recreation. The draft of the new LDP has been approved by East Lothian Council since the previous application was lodged. We understand that, although it is still subject to finalisation, it

should nevertheless be taken into account as a material consideration in the present application and we are not aware of its containing any variations as regards development in the countryside which would justify the sort of encroachment likely to result if the application is granted.

While it is accepted that much of the feedstock will comprise agricultural crops, it is apparent from paragraph 1.1.5 of the planning assessment that over 23% of the feedstock will comprise industrial bi-products of brewing and distilling. This is a much higher percentage than was indicated in the previous application and there seems to be no assurance that it will not be increased in the future. See further on this in our comments on paragraph 2.4.6 immediately below.

2.4.6 – The same considerations apply as for paragraph 2.4.5 above. The agricultural produce [to be digested at the plant] would all be sourced locally from local farmers and brewers...The AD plant must be located in close proximity to the farms that will serve it. Anecdotal evidence suggests that only a few farmers in the immediate locality of the plant will be participating and that the participants are spread over a much wider area than is indicated in the documents, including as far away as Dunbar, some 25 kilometres distant from the site, and Pathhead and Rosewell, in Midlothian, some 25 and 30 kilometres respectively distant from it. We have been told that brewers' grain, included as a significant proportion of the typical mix of feedstock, will be transported to the plant from outwith the area. We also note from paragraph 1.1.5 of the planning assessment that a significant volume (4000 tonnes) of pot ale syrup, not mentioned in relation to the previous application but which we understand to be a bi-product of the distilling industry, has been introduced into the typical mix of feedstock. Its source has not been disclosed. In the light of these considerations we suggest that the impression given of a rural idyll, in which a local entrepreneur will provide a valuable facility to the local farming community, is misleading and that the likelihood is that, once the industrial process inherent in the application has been established, feedstock will be accepted from far and wide, regardless of its nature or its source.

2.4.10 – There are no other sites within East Lothian that the client is aware of that meets [sic] all these criteria [ie access to the gas grid at a suitable pressure, having an available electrical grid connection and the site being accessible and available for purchase]. No information is given as to what enquiries, if any, the applicant or his advisers have made to establish the availability or suitability of alternative sites.

We suggest that taking all these comments into account, it is not appropriate to site the development in the chosen location.

2. Transport and traffic;

In consultations with our constituents we have found that traffic implications have emerged as the greatest cause of anxiety in relation to the application. We suggest that a number of statements about transport, tonnages and traffic in the application documents are open to question. It is stated in paragraph 1.1.3 of the non technical overview that when the plant is fully commissioned it will process around 220 tonnes of feedstock per day. As it is stated that the plant will run continuously, this amounts to 80,300 tonnes per annum. The total feedstock listed in paragraph 1.1.5 however amounts to only 62,742 tonnes per annum, which equates to only 172 tonnes per day. Thus the actual daily consumption of feedstock when the plant is fully commissioned would appear to be nearly 30% greater than indicated in the application documents. It would seem to follow that the applicant's assessment of traffic movements are therefore under-calculated by the same percentage and must be treated with suspicion. Even if initial restrictions in volumes are agreed between the Council and the applicant, what mechanism will be

available to the Council to monitor compliance with this in the future?

It is further stated in paragraph 1.1.7 that deliveries would be made only on Mondays to Fridays (8.30 am to 4.30 pm) and 8.30 am to 12.30 pm on Saturdays. With the Saturday hours amounting to half those on weekdays, we calculate this to total the equivalent of 286 full days, breaking down to an average of 280 tons per day when the plant is running at full capacity.

It is not clear, and has not been specifically stated, whether the transport figures referred to in paragraph 1.1.7 of the non technical overview take into account the volume of digestates which will be transported back to farms from the site, as referred to in paragraph 1.1.8 of that overview. These amount in total to 84,000 tonnes per annum. Even if the cake (stated at 17,000 tonnes) is transported back to farms on the vehicles which deliver feedstuff, which again is not made clear, that would still leave 67,000 tonnes of liquid fertiliser, which we assume would have to be transported in tankers. There is not sufficient information in the application documents to enable us to check whether the claimed number of traffic movements is accurate and we urge you to ensure that they are checked.

It has also indicated in paragraph 1.1.7 that traffic movements in the summer months will be about twice as frequent as in the winter months. It been suggested to us that the difference is likely to be significantly higher than this during the peak harvesting months of July and August. This increase would coincide with the peak tourist/golf/school holiday period, when the area is already at its busiest and the roads most crowded. We have also noted that the measurement of traffic volumes referred to in the transport statement was carried out at the end of September, well outwith this busy period.

The information about traffic volumes, tonnages, etc, in the transport statement lodged with the application appears to be predicated on the figures contained in the non technical overview. As indicated above, we are doubtful as to the accuracy of those figures and as a result we question the soundness of the conclusions given in the transport statement.. While the assessment of the B1377 Drem to Longniddry road may be theoretically correct, we do not think it accurately reflects the characteristics of that road as known to, and experienced by, members of the public who use it regularly. It is not stated that in practice it is the main road between Edinburgh and North Berwick; that almost its whole length between the Ballencrieff roundabout and Drem has double white lines and central hatching to prevent overtaking or that the short stretch of straight road immediately to the west of the roundabout, on which the access to the site will be located, is effectively the only point between Longniddry and Drem where there is any chance of overtaking a slow moving vehicle (though invariably overtaking there is not possible because of oncoming traffic). The statement also fails to mention that, as local farmers will be undertaking much of the delivery of feedstock to the site, this will involve their using several local roads which are much narrower than the B1377. The implications of their doing so have not been assessed.

We would observe that some years ago the Planning Department rejected an application to develop a nearby farm steading, on the grounds that the desired access to the site from the B1377 was far too dangerous because of the volume of traffic on that road.

We fear that if the application is granted, much of the traffic which at present uses the B1377 will instead divert onto the A198 coast road, resulting in further congestion within the coastal villages, particularly in Aberlady, where the volume and nature of the traffic is a danger to local residents. It has always been the view of the Community Council that efforts must be made to encourage traffic along the inland road, rather than the coast road. This development would do the opposite. Again, the implications of this have not

been considered in the transport statement.

3. The environment and biodiversity;

Although laying hen litter or poultry manure, which was included amongst the feedstock in the previous application, has not been included in the present one, experience in the Dirlerton area has shown that such litter produced at Ferrygate farm is liable to cause significant odour if not correctly handled and we fear that its future use at the site could cause a problem. We would therefore ask that if, despite our objections, the application is granted an absolute prohibition against its use, and the use of similar material, as feedstock should be imposed.

A number of our constituents have expressed concern that if food waste is processed at the plant, this will result in an unacceptable level of odours. The applicant has stated that the plant is not designed to accept such waste, that no such waste will be processed and that he is willing to accept a planning restriction against such processing. We would therefore also ask that if, despite our objections, the application is granted an absolute prohibition against its use as feedstock should be imposed.

It is stated in paragraph 3.4.1 of the non technical overview that the site sits in a natural bowl in the landscape and that adjacent trees provide natural screening for the development. We question these assertions. From an inspection of the site we consider that it lies on a plane inclined slightly to the north, with a drop of not more than two or three metres from south to north and open views to the north, across the east coast railway line to the farmland beyond. We have been informed that the tree belt lying to the east of the site was planted over fifty years ago and comprises oak, beech and sycamore species. At the time of our inspection, in the autumn, most of the leaves were still on the trees, yet traffic using the Ballencrieff-Haddington road just to the east of the tree belt was readily visible. It was apparent from a recent further inspection that with no leaves on the trees there is an almost clear view from the site through the tree belt to that road and to the houses in Ballencrieff, just beyond it. We therefore suggest that the tree belt is unlikely to provide any effective screening of the site during the winter months.

Hardly any mention is made in the application documents of the possible effect of the proposed development on wildlife, only a brief and general comment being included in paragraph 3.5.1 of the non technical overview. We consider the comments made there to be dismissive of this potentially important aspect of any proposed development in the countryside and we have the impression that the applicant has given little, if any, consideration to this question. The site lies only three kilometres south of Aberlady Bay, which forms part of the Firth of Forth Special Protection Area (SPA). Aberlady Bay hosts populations of over-wintering pink footed geese, stated on the ELC website at http://www.eastlothian.gov.uk/info/379/countryside_and_wildlife/1511/countryside_sites/7 to be up to 30,000 in number and listed as being of European and international importance. We have been advised by local residents and a local farmer that the field in which the site is located and those to the south of it are regularly visited during the winter by large numbers of geese for feeding and as an assembly point en route to their roosting grounds at Aberlady Bay. We suggest that if the development is allowed it is likely to have a seriously adverse effect on this wildlife and thus on the integrity of the SPA. It is our understanding that, because of the proximity of the site to the SPA, before making a decision on the application the Council should require an assessment of the possible impact of the development on the SPA to be undertaken – for instance to cover such matters as geese feeding on, and over-flying, the site.

4. Drainage;

The site is at present drained via a small burn that runs northward, under the B1377, through Ballencrieff Farm and into the Gosford estate. The dimensions of this drainage are sufficient to handle the volume of water that naturally drains off the farmland it serves. But it is proposed that an area of say 18,000m² (1.8 hectares) will be concreted over. East Lothian enjoys an average rainfall in the region of 70cms per annum, or 700 litres per m². Thus 12.6 million litres of rainfall per annum will flow very rapidly and directly into the burn instead of draining into the ground and finding its way north slowly through the burn. The potential danger of flooding is self-evident. We ask that the Council satisfies itself not only of the capability of the culvert under the B1377 to handle a significant increase in runoff, but also of the risk of flooding on Ballencrieff Farm and Gosford Estate.

5. Site extent and storage of feedstock;

The site is stated in the additional information dated 11 February lodged with the application to extend to 1.98 hectares (and we have been advised by the applicant's consultant that this measurement includes the area of the access road). We accept that if this measurement is correct and that if the site genuinely measures less than 2 hectares there was no obligation on the applicant to give notice of his intention to submit a planning application or to hold a public consultation event. The stated measurement however falls short of this threshold by only 0.02 hectare, or 200 square metres, an area equivalent to that of a modestly sized domestic lawn. We therefore ask that you carefully check the measurement of the site rather than rely on the applicant's statement of it, with a view to establishing whether the required statutory procedure has been followed.

We are also concerned about statements made in the documents about storage of materials at the site. It is stated at paragraphs 1.1.7 and 3.2.1 of the non technical overview that feedstock will be stored remotely and delivered [presumably to the site, though this is not stated] as and when required. It is also stated however at paragraph 3.4.2 of the same document that the development would result in landscape or visual impacts which, quoting the document, would be contained within or very close to the site boundary...(our underlining). More worryingly, it is stated in the additional information referred to above that some crops may be kept in fields at Standalane. The additional information document goes on to show photographs of massive "agbags", presumably of the kind likely to be used in this instance, and states that the use of such bags does not constitute development. We suggest that it is clear from these comments that it is the applicant's intention to store feedstock on land adjacent to the site and not forming part of it. We would accept that the use of ordinary sized agbags on farms is a normal incident of agriculture in East Lothian and would not constitute development. We think it is clear however that once such bags are delivered to and stored at or adjacent to the site they will become an incident of the industrial process to be carried on there. It should follow that any such land on which they are stored adjacent to the site (which we understand would be within the applicant's ownership) should be incorporated within the application site and would thus be likely to bring it to more than 2 hectares in extent. Additionally, we would ask that if the application is granted in its present form, an absolute prohibition against storage of material associated with it on adjacent land should be imposed and that this prohibition is monitored and enforced.

The Community Council conclude that they are sympathetic to the needs of the farming community and to initiatives which will protect its viability in an age of fierce competition and are on record as having often said that agriculture is one of the main economic drivers in their area, noting that many farmers have themselves installed small scale anaerobic digestion units to handle the waste from their own farms, which are sensible and environmentally friendly measures. The Community Council also accept the principle of anaerobic digestion as a sensible means of generating sustainable energy,

but state this proposal is for what amounts to an industrial process on a significant scale and it should therefore be located in a more appropriate location, ideally a brownfield site that is already zoned for industrial use.

The Community Council therefore suggest that the application should be refused, or failing that, that more detailed information on the points raised in their response should be called for, considered and consulted upon before a decision is made.

Longniddry Community Council make comment on the application regarding matters of site access and visibility and that traffic movements associated with the operation of the proposed anaerobic digester plant and other associated works would impinge on the morning and evening peak traffic flows on the B1377 and the surrounding road network and thus the proposed delivery hours should be reduced.

Policy 10 of the approved South East Scotland Strategic Development Plan (SESplan) seeks to promote sustainable energy sources. Local Development Plans should set a framework for the encouragement of renewable energy proposals that aims to contribute towards achieving national targets for electricity and heat, taking into account relevant economic, social, environmental and transport considerations, to facilitate more decentralised patterns of energy generation and supply and to take account of the potential for developing heat networks.

It is stated in paragraph 9.6 of the adopted East Lothian Local Plan 2008 that the Council is supportive of Government policy to secure greater energy generation from renewable sources. The benefits will be weighed against the impact on the local environment and features of interest.

It is stated in Part 1(a) of Policy DC1 of the adopted East Lothian Local Plan 2008 that infrastructure type development will be acceptable in principle in the countryside of East Lothian provided it has a clear operational requirement for a countryside location that cannot reasonably be accommodated within an existing urban or allocated area.

With its purpose to generate and supply renewable gas and electricity the proposed anaerobic digester plant and associated development can reasonably be defined as being an infrastructure type development.

The applicant's agent informs in the submitted Planning Assessment that the application site is specifically located to be able to connect into the gas grid and would have an available electricity grid connection, which other sites do not afford. It is also strategically located to receive the required feedstock for the operation of the plant grown locally by nearby farms, is accessible and the land was available.

In terms of this consideration, Gullane Area Community Council and many of the objectors have suggested that the proposed anaerobic digestion plant should be located on land allocated for industrial development.

The applicant's agent advises there are a range of site criteria needed for the proposed anaerobic digestion plant, including, (i) proximity to the crops that feed it, (ii) a site that is accessible, (iii) a site that is available, (iv) gas grid and electricity capacity and availability (the gas connection needs to be to the correct pressure and have sufficient vacant capacity to make the proposal viable), (v) not in an urban area, (vi) of sufficient size, and (vii) an area that would be visually acceptable.

The applicant's agent further advises that a range of sites were assessed, including Alderson Farm where the landscape impact was considered harmful, Bangleigh Quarry

where the site was not large enough and at West Fortune Farm, where there is a gas pipeline running through it but it's a main line transmission pipe and cannot accept connections. The applicant is not aware of any other available existing employment sites that meet all the necessary locational criteria. It is for this reason the applicant purchased the application site which does meet all the criteria required for the operation of the proposed anaerobic digestion plant.

Whilst there may be land in East Lothian that is both allocated for industrial development and perhaps large enough accommodate the proposed development, it is the case that such locations may not be strategically located to both have a gas and electricity connection and receive deliveries of feedstock from local farms.

The proposed development has an operational requirement to be in this general location and thus the anaerobic digester plant and associated development can be justified as a form of new build infrastructure development capable of providing a renewable energy source of gas and electricity, consistent with the terms of Policy 10 of the approved South East Scotland Strategic Development Plan (SESplan) and Policy DC1 of the adopted East Lothian Local Plan 2008.

In terms of land use Scottish Planning Policy states that where it is necessary to use good quality land for development, the layout and design should minimise the amount of such land that is required. Development on prime agricultural land may be permitted where it is essential as a component of the settlement strategy or necessary to meet an established need. Scottish Planning Policy also states that the planning system should support the transformational change to a low carbon economy, consistent with national objectives and targets, including deriving 30% of overall energy demand from renewable sources by 2020. Moreover Policy 10 of the approved South East Scotland Strategic Development Plan (SESplan) and paragraph 9.6 of the adopted East Lothian Local Plan 2008 encourages the development of renewable energy proposals to facilitate the transition to a low carbon economy. In this it is considered that the proposed development would go some way to meeting the target of deriving 30% of overall energy demand from renewable sources by 2020.

Part 5(d) of Policy DC1 states that proposed development must minimise the loss of prime agricultural land. This is not the same as stating that there must be no loss of prime agricultural land. Rather, if prime agricultural land has to be developed, the amount of such land taken out of agricultural use must be the least possible. Given the size of the site, less than 2 hectares, and the amount of undeveloped agricultural land in the surrounding area it is considered that the proposed development would, given its nature, minimise the loss of prime agricultural land.

Policy DP13 of the adopted East Lothian Local Plan 2008 generally presumes against new development that would have an unacceptable impact on the biodiversity of an area.

The Council's Biodiversity Officer has considered the proposals and is satisfied that the proposed development would not have any adverse biodiversity impacts. The Council's Biodiversity Officer is further satisfied that there would be no harmful impact on any local nature reserves or internationally protected areas.

Accordingly, the proposed development is not contrary to Policy DP13 of the adopted East Lothian Local Plan 2008.

In terms of heritage assets in the form of listed buildings and scheduled monuments due the positioning within the landscape and location of the proposed development it would not have a harmful impact on any designated building or natural feature.

The applicant's agent has submitted an Air Quality and Odour Assessment in support of the proposals.

The Council's Environmental Health Service has reviewed the applicant's submitted Air Quality and Odour Assessment and is satisfied that subject to the requirement that no consumer waste foodstuffs or animal by-products would be transported to, or processed within, the proposed anaerobic digestion facility (which is not proposed in this application) then they are satisfied there would no harmful impact on the amenity of any nearby residential property, including any future occupants of the house proposed in separate application 15/00902/P (Standalane Steading) from odour arising from the operation of the proposed anaerobic digester plant, or any other part of the proposed development.

The Scottish Environment Protection Agency (SEPA) are also satisfied that the submitted Air Quality and Odour Assessment demonstrates that there would no harmful impact on the amenity of any nearby residential property, including any future occupants of the house proposed in separate application 15/00902/P (Standalane Steading) from odour arising from the operation of the proposed anaerobic digester plant, or any other part of the proposed development.

However SEPA did object to the proposed development on the basis that it had not been demonstrated that the impacts from the operation of the proposed anaerobic digester plant and associated development on the air quality enjoyed by future occupiers of the house proposed in separate application 15/00902/P (Standalane Steading) would not result in a loss of amenity to future occupiers of that residential property. SEPA are satisfied however that there would no harmful impact on the air quality enjoyed by any other nearby residential property.

In response to SEPA's objection the applicant has submitted an Addendum Air Quality and Odour Assessment to supplement the originally submitted Air Quality and Odour Assessment.

SEPA have reviewed this further submitted document and confirm that it demonstrates to their satisfaction that, due to the height of the proposed odour control stack within the site, there would be no harmful impact on the air quality enjoyed by any future occupants of the house proposed in separate application 15/00902/P (Standalane Steading). Therefore on this matter of air quality the proposed anaerobic digester plant and associated development would not harm the amenity of any nearby residential property, including any future occupants of the house proposed in separate application 15/00902/P (Standalane Steading).

The Council's Environmental Health Service initially raised concerns that noise associated with the operation of the proposed anaerobic digester plant and associated development, including from vehicle movements to and from the site using the new site access road, may result in a loss of amenity to occupiers of residential properties in the wider area and future occupiers of the house proposed in separate application 15/00902/P (Standalane Steading).

In response to this the applicant's agent has submitted a Noise Assessment.

On this matter of noise, the Council's Environmental Health Service have appraised the submitted Noise Assessment and is satisfied that noise arising from the operation of the proposed anaerobic digester plant and other associated development, as well as from traffic movements to and from the site on the new site access road would not have a

harmful noise impact on the amenity of any nearby residential property, including any future occupants of the house proposed in separate application 15/00902/P (Standalane Steading) subject to the following recommendations:

(i) the Rating Level, LArTr, of noise emanating from any associated plant or machinery serving the proposed anaerobic digester plant and any other part of the proposed development (when measured 3.5m from the façade of any neighbouring residential property) being no more than 5dB (A) above the background noise level, LA90T. All measurements to be made in accordance with BS 4142: 2014 “Methods for rating and assessing industrial and commercial sound”. The difference between the Rating Level and Background Level can be increased to 10dB where the noise source does not have a tonal element;

(ii) noise associated with the operation of any associated plant or equipment serving the proposed anaerobic digester plant and any other part of the proposed development not exceeding Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any neighbouring residential property. All measurements to be made with windows open at least 50mm;

(iii) noise associated with vehicle movements emanating from use of the proposed new access road serving the site from the B1377 road complying with the upper limit for daytime garden noise levels of 55dBLAeq,t specified in paragraph 7.7.3.2 of BS8233:2014 “Guidance on sound insulation and noise reduction in buildings” within any neighbouring residential property; and

(iv) noise associated with vehicle movements emanating from use of the proposed new access road serving the site from the B1377 road complying with daytime and night-time internal noise levels specified in Table 4 of BS8233:2014 “Guidance on sound insulation and noise reduction in buildings” within any neighbouring residential property.

The Council’s Environmental Health Service confirms the submitted Noise Assessment demonstrates the above requirements can be met.

SEPA also initially raised objection to the application on the basis that it had not been demonstrated that noise arising from the operation of the proposed anaerobic digester plant and associated development would not result in a loss of amenity to occupiers of residential properties in the wider area, in particular future occupiers of the house proposed in separate application 15/00902/P (Standalane Steading).

SEPA have also appraised the submitted Noise Assessment and are satisfied that it demonstrates the recommended conditions of the Council’s Environmental Health Service can be met and subject to those being imposed on a grant of planning permission, were that to be the decision, they advise that noise arising from the operation of the proposed anaerobic digester plant and associated development would not result in a loss of amenity to occupiers of residential properties in the wider area and future occupiers of the house proposed in separate application 15/00902/P (Standalane Steading).

SEPA further confirm that the proposed anaerobic digester plant does require to be permitted under their separate regulatory regime, namely the Pollution Prevention and Control (Scotland) Regulations 2012 (PPC) (Part A). SEPA advise that from the information submitted with the planning application they consider that it should be possible to issue such a permit, which would be subject to their separate regulation.

Given the location of the proposed development and its resultant distance from the nearest residential properties, it would not give rise to any harmful loss of daylight, sunlight or lead to any harmful overlooking of any nearby residential property, including potential future occupiers of the house proposed in separate application 15/00902/P (Standalane Steading).

On these foregoing considerations of air quality, odour and noise and subject to the imposition of the above mentioned conditions, the proposed development would not have a harmful impact on the privacy and amenity of any nearby residential property, including any future occupants of the house proposed in separate application 15/00902/P (Standalane Steading). In this it is consistent with Policies DC1 (Part 5) and DP2 of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: June 2014 and Planning Advice Note 51: Planning, Environmental Protection and Regulation.

SEPA raises no objection to the proposed development on the grounds of potential flood risk. In terms of site drainage SEPA is satisfied it should be possible to discharge surface water run off via a soakaway and to a watercourse including partial soakaway. SEPA therefore raise no objection to the application on the grounds of site drainage, subject to the imposition of a condition on any grant of planning permission, that full details of the proposal for water supply and drainage (including surface and foul drainage) be agreed with the Planning Authority in consultation with them prior to the commencement of development.

The application site is set within an undulating landscape of fields contained by hedgerows and trees, areas of woodland, watercourses and dispersed existing farm complexes. Although the land of the application site is relatively flat, the land to the north slopes gently downwards towards the B1377 road and the land to the south rises upwards away from the site. To the east of the site is an existing linear stretch of mature woodland that runs in a north to south direction, the trees of which are some at 15 metres high. This treed strip doubles in width around the former Standalane agricultural buildings to the east of the site then tapers to a point where it meets the B1377 adjacent to the proposed site access.

On the matter of landscape impact, the Council's Landscape Projects Engineer has appraised the applicant's submitted Landscape and Visual Impact Assessment, and the accompanying photomontages.

He advises that the proposed development would be reasonably screened to the east by the existing linear stretch of mature woodland on the east side of the site. However, he notes that during the months of the year when the deciduous trees within this strip and other wooded areas in the wider area are not in leaf, the site would be more visible.

He considers that views into the site from the south and west would be minimised by the topography of the landscape of the area, the surrounding dispersed built environment and existing vegetation. The proposed development would, however, be clearly visible from a short section of both the B1377 and the adjacent rail line, to the north and northwest of the site. In general, the topography of the site lends itself reasonably well to accommodating the proposed development in respect of the wider views which have been considered in detail within the applicant's Landscape and Visual Impact Appraisal (the Appraisal) dated January 2016. The Landscape Projects Engineer advises that this is visually evident in the submitted viewpoints and photomontages taken from the surrounding area. He advises that the Appraisal has been carried out in accordance with the Guidelines for Landscape and Visual Impact Assessment, Third Edition, published by the Landscape Institute and Institute of Environmental Management and Assessment.

In respect of the surrounding landscape character the Landscape Projects Engineer advises that there are cylindrical silo type structures similar to parts of the proposal associated with local farms, as well as large sheds which are akin to the agricultural landscape that is the site's context. However, he acknowledges that the proposed development is of a larger physical size and number than the smaller structures located within local farm settlements, therefore creating a greater visual impact of an industrial nature such that the proposal does not read in a similar context as it is not attributed to any existing farm buildings other than the disused Standalane Steading buildings within the treed area to the northeast of the application site.

In this respect the Landscape Projects Engineer confirms that the application site is in an area where the topography and vegetation would reasonably screen or soften the proposed development's visual appearance and impact from a number of viewpoints but that it would appear incongruent to the landscape composition due to its massing. This advice is qualified in respect that within the Appraisal is a 'Proposed Planting' plan (drawing number ED11615/Fig 15), which shows a comprehensive detailed landscaping scheme comprising the creation of new woodlands, hedgerows and individual tree planting. He confirms that if this proposed planting is successfully managed it would mitigate, in time, against the level of visual impact that the development has from the viewpoint receptors that have been assessed through their levels of magnitude and overall effect. He further advises that the timescales for this planting to make a significant impact on the development are approximately five to ten years for the hedging, fifteen to twenty years for the woodland trees and ten years for the individual trees. This will only be successful if all planting stocks are of good quality, planted and protected and carefully managed until fully established. The planting should provide a level of screening/softening from views into the site along the B1377 and rail line to the north/north-west, amongst others assessed in the Appraisal. There is an additional strip of mixed woodland planting proposed that includes evergreen varieties of trees, shown to be planted between the site and the existing wooded strip to the east of the site. This would further decrease the visual permeability of the site when viewed from the east along the A6137 north and south bound. The proposed planting layout is in keeping with the landscape character assessment for this area which was determined in the Ash Consulting Group 1998 'The Lothians Landscape Character Assessment', Scottish Natural Heritage review No. 91, (LCA) 24 North Berwick Plain.

The Landscape Projects Engineer advises that this planting scheme should create an enclosure to the development within the open field, thus improving its setting within the wider context, noting that although the planting will take a number of years to establish it should, year on year, begin to soften/screen the development. In this he acknowledges that there are a number of viewpoints where elements of the development would remain visible, from the B1377 road to the north of the site and to a lesser extent in longer distance views from the north and south.

In all of the above the Landscape Projects Engineer does not object to the proposed development, advising that although it would result in a significant new landscape feature, the surrounding topography in the wider area lends itself reasonably well to accommodating the proposed development. Moreover, with a requirement for the submission of a detailed landscaping plan based on the principles shown in the Appraisal this would mitigate, in time, against the level of visual impact from the most public viewpoints to the north and northeast.

In conclusion, given the location of the proposed development in the context of its landscape setting, with the surrounding undulating topography interspersed by mature woodlands and farm complexes, the magnitude of change to the landscape character of

the area would not be so significant or of such a degree that would have a lasting harmful impact on the landscape setting and visual amenity of the area. The proposed development can be successfully accommodated in this particular location in the East Lothian countryside.

On these considerations of landscape impact the proposed development is capable of being appropriately accommodated within its landscape context. Whilst it would be a significant scale of development it could be successfully and appropriately visually contained within the site as described above. In this it does not conflict with Policies DC1 (Part 5), DP1 and DP2 of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: June 2014 and Planning Advice Note 51: Planning, Environmental Protection and Regulation.

In terms of the impact of the proposed development of tourism, there is no evidence to substantiate the assertion of some of the objectors that the proposed development would harm tourism in East Lothian. Moreover given the above landscape assessment it has been concluded the proposed development can be accommodated without having a lasting harmful impact on the landscape setting and visual amenity of the area.

The Council's Road Services have appraised the applicant's submitted Transport Statement. Road Services advise that they are supportive of its findings, with particular regard to the localised transport impacts of the operation of the proposed development in its operational phase. Road Services are also satisfied that the predicated level of vehicle trips to and from the site as identified in the submitted Transport Assessment is a reliable basis on which to assess such a proposed development. Road Services further state that the submitted traffic count data has identified ample reserve capacity in the local road network to accommodate additional movements associated with trips to and from the site and note that even with the worst case scenario of all vehicles trips happening within the peak hour (which is highly unlikely to occur), the existing road network can accommodate the additional traffic movement satisfactorily, particularly with many of the sources of the trips already originating locally (i.e. with East Lothian).

Road Services raises no objection to the application, being satisfied that traffic likely to be generated by the proposed development could be satisfactorily accommodated on the local road network and thus it would not result in a road or pedestrian safety hazard. Road Services do, however, recommend that:

- * a visibility splay of 2.5 metres by 215 metres be provided and maintained on either side of the proposed new vehicular access with the B1377 road so that no obstruction lies within the splay above a height of 1.05 metres measured above the adjacent carriageway surface;
- * at the proposed new site access junction with the B1377, corner radii of 10.5 metres be provided on either side of the junction;
- * at least the first 10 metres of the vehicular access road from its junction with the B1377 public road be constructed to ELC Standards for Development Roads. The principles of this are shown on submitted drawing number 4257-D2-0015 rev 5;
- * a Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area be submitted to and approved by the Planning Authority prior to the commencement of development;
- * a Travel Plan for workers and a Transport Management Plan for deliveries to and from the site be submitted to and approved by the Planning Authority prior to the

commencement of development; and

* in order to promote sustainable methods of travel to and from the site for employees, showering facilities should be provided as well as at least 4 undercover and secure cycle parking spaces.

Road Services confirm the recommended visibility splay and corner radii are achievable.

Subject to the appropriate use of conditions to cover these recommendations of Road Services, the proposed development of and operation of the site as an anaerobic digester plant and associated development does not conflict with Policies DP20, T1 and T2 of the adopted East Lothian Local Plan 2008.

In all of the above considerations the assessment of the proposal is that, whilst it would result in the presence of a significant infrastructure development in this countryside location, the proposed use complies with Policy DC1 of the adopted East Lothian Local Plan 2008, and its visual and landscape impact, subject to appropriate planting to better integrate it with its landscape and woodland context, is capable of being accommodated in this particular landscape context. In this location it would be acceptably served by the proposed new vehicular access, and traffic movements as a result of it can be accommodated within the existing road network. It would also not result in a harmful loss of amenity to any existing or proposed residential property. It would also be capable of providing energy generation from renewable sources. There are no other material planning considerations which would justify a refusal of planning permission.

CONDITIONS:

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

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

- 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 A schedule of materials and finishes and samples of such finishes for all components of the development, including ground surfaces and any boundary enclosures shall be submitted to and approved by the Planning Authority prior to the material and finishes being used in the development.

The materials and finishes used in the development shall accord with the schedule and samples of them so approved.

Reason:

3 To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area.
The capacity of the anaerobic digestion plant hereby approved shall not exceed 62,724 tonnes per annum.

Reason:
4 To restrict the capacity of the plant to that applied for, in the interests of the amenity of the area.
No consumer waste foodstuffs or animal by-products shall be transported to, or processed within the anaerobic digester plant hereby approved.

Reason:
5 In the interests of the amenity of the area.
The anaerobic digestion plant hereby approved shall only operate between the hours of 8.00am - 6.00pm Monday to Friday and 8.00am - 1.30pm on Saturdays only.

Reason:
6 To restrict the operational hours of the plant to that applied for, in the interests of the amenity of the area.
Prior to the commencement of development full details of the proposal for water supply and drainage (including surface and foul drainage) for the site shall be submitted to and approved by the Planning Authority following consultation with the Scottish Environment Protection Agency.

The water supply and drainage scheme for the application site shall thereafter be fully implemented in accordance with the details so approved.

Reason:
7 To ensure the provision of a satisfactory drainage scheme for the application site.
A visibility splay of 2.5 metres by 215 metres shall be provided and maintained on each side of the new vehicular access junction with the B1377 public road and no obstruction within the visibility splay shall be above a height of 1.05m measured from the level of the adjacent carriageway of the public road;

At the new vehicular access junction with the B1377 public road corner radii of 10.5 metres shall be provided on either side of the junction, the detail of which shall be submitted to and approved in advance by the Planning Authority;

At least the first 10 metres of the vehicular access road from its junction with the B1377 public road shall be constructed to East Lothian Council Standards for Development Roads in accordance with that shown on docketed drawing no. 4257-D2- 0015 Revision 5.

Reason:
8 In the interests of road safety.
A Travel Plan for workers at the site to reduce reliance on staff single occupancy car use and to encourage the use of alternative forms of travel shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Plan shall include a timetable for its implementation and details of the system of management, monitoring, review, reporting and duration of the Plan.

Reason:
9 In the interests of ensuring sustainable travel patterns in respect of the development and in the interests of road safety.
A Transport Management Plan to minimise the impact of operational site traffic on the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. It shall detail the times between which deliveries shall be made to and from the site and the amount of vehicle movements per day (a movement equates to one vehicle entering the site or leaving the site, thus one vehicle entering and leaving the site equates to 2 movements) and also detail the routes to be taken to and from the site, and shall also include a timetable for its implementation and details of the system of management, monitoring, review, reporting and duration of the Plan.

Reason:
10 In the interests of the amenity of the area and in the interests of road safety.
A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control construction traffic, including the routes to be taken to and from the site, and shall include hours of construction work and details of wheel washing facilities to be provided. Wheel washing facilities must be provided and maintained in working order during the period of operation of the

site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Reason:

- 11 To minimise the impact of construction activity in the interests of the amenity of the area.
Prior to the commencement of operation of the anaerobic digester plant and associated development as hereby approved showering facilities shall be provided within the site as well as at least 4 undercover and secure cycle parking spaces, in accordance with details to be submitted to and approved in advance by the Planning Authority.

Reason:

- 12 To promote the use of a sustainable form of transport to the development.
No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall be based on the landscape proposals shown on docketed drawing no.ED11615/Fig 15. The scheme shall provide details of: the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

- 13 In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the landscape character and visual amenity of the area.
The anaerobic digester plant and associated development all as hereby approved shall at all times operate in compliance with the following requirements:

(i) the Rating Level, LArTr, of noise emanating from any associated plant or machinery serving the anaerobic digester plant hereby approved and any other part of the proposed development (when measured 3.5m from the façade of any neighbouring residential property) shall be no more than 5dB (A) above the background noise level, LA90T. All measurements to be made in accordance with BS 4142: 2014 "Methods for rating and assessing industrial and commercial sound". The difference between the Rating Level and Background Level can be increased to 10dB where the noise source does not have a tonal element;

(ii) noise associated with the operation of any associated plant or equipment serving the anaerobic digester plant hereby approved and any other part of the proposed development shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any neighbouring or nearby residential property. All measurements to be made with windows open at least 50mm;

(iii) noise associated with vehicle movements emanating from use of the new access road serving the site from the B1377 road as hereby approved shall comply with the upper limit for daytime garden noise levels of 55dBLAeq,t specified in paragraph 7.7.3.2 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings" within any neighbouring or nearby residential property;

(iv) noise associated with vehicle movements emanating from use of the proposed new access road serving the site from the B1377 road as hereby approved shall comply with daytime and night-time internal noise levels specified in Table 4 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings" within any neighbouring or nearby residential property.

Reason:

In the interests of the amenity of any neighbouring or nearby residential property.

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).*

*[*Pages 36 - 64 of the public document pack]*

REPORT TO: Planning Committee
MEETING DATE: Tuesday 19 April 2016
BY: Depute Chief Executive (Partnership and Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

3

Note - this application was called off the Scheme of Delegation List by Councillor Caldwell for the following reason: This building has a golfing history dating back many years and it is important that the Committee members visit the site before a decision is made.

Application No. **15/01035/P**

Proposal Change of use from pub/restaurant/managers flat and pub grounds to form 1 house and domestic garden ground

Location **2 Ravensheugh Road
Musselburgh
East Lothian
EH21 7PP**

Applicant Clifton March

Per EMA Architecture + Design Limited

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The application site comprises the former Mrs Formans public house, restaurant and manager's flat and associated grounds that are located on the north side of Ravensheugh Road. The site is to the north side of the Levenhall Roundabout junction of Ravensheugh Road with Linkfield Road to the west, Pinkie Road to the south and Haddington Road to the east. The public house, restaurant and managers flat are presently vacant and un-occupied.

The existing building comprising the public house, restaurant and managers flat is positioned on the southern part of the site with its south (front) elevation fronting onto the public footpath on the north side of Ravensheugh Road. The land to the north (rear) of the building was last in use as pub grounds and garden ground for the manager's flat. The building has a rectangular shaped footprint and is predominantly two storeys in height with a dual pitched and gabled roof. Attached to its east gable elevation is a one and a half storey component with a pitched and piended roof and a wall-head dormer on

its south (front) elevation. Attached to the east elevation of that one and a half storey part of the building is a mono-pitch roofed component with an external staircase. Attached to the north (rear) elevation of the two storey main part of the building is a two storey flat roofed component with an external staircase. The external walls of the building are finished in a combination of painted stone and painted render, and its roof is finished with red clay pantiles. The building has chimneys and stone copes to its gabled roof. The frames of its windows are of painted timber construction and the majority of the windows are of a traditional sash and case style opening method. The frames of the external doors are of painted timber construction and the external doors are of a painted timber construction or timber and glazed construction. There are painted stone bands around the windows of the south (front) and west side elevations of the building, and a painted base course on its south (front) and west side elevations. There is a dual pitched roofed porch canopy above the main entrance doors of the south (front) elevation of the main two storey part of the building.

The land of the application site rises up slightly from north to south with the land to the north (rear) of the existing building being at a higher ground level than the public footpath to the south (front) of the building.

The application site is enclosed along its south boundary in part by the south elevation wall of the existing building and in part by a high rendered wall with a pedestrian gate through it. The west boundary of the site is enclosed by a combination of the west gable elevation wall of the existing building, a 1.6 to 1.8 metres high rubble stone boundary wall with a 'sheeps heid' cope, a 1.6 metres high metal pedestrian gate and a cypress hedge some 5 metres in height. The north boundary of the site is enclosed by a 1.3 to 1.5 metres high rubble stone boundary wall with a 'sheeps heid' cope. The east boundary of the site is enclosed by a combination of 1.4 to 1.5 metres high rubble stone boundary wall with a 'sheeps heid' cope with 600mm high timber fencing attached to the top of it giving an overall height of some 2.0 metres, a 1.2 metres high rubble stone wall with 'sheeps heid' cope, trellis and hedging to 1.6 metres in height, and 1.5 to 1.8 metres high rendered wall with 500mm of timber fencing attached to the top of it giving an overall height of some 2.0 to 2.3 metres above ground level.

The application site is bounded to the east by the residential properties of 4 and 4A Ravensheugh Road, to the north by an area of open space on which there is a group of mixed evergreen and deciduous trees, to the west by land of the Musselburgh Old Golf Course and Musselburgh Racecourse, and to the south by the public road of Ravensheugh Road at the Levenhall Roundabout junction and an area of public off-street parking on the western part of which are positioned communal public recycling bins and charity collection bins.

Along with the cypress hedge that encloses part of the west boundary of the site there is a further holly tree positioned adjacent to the west boundary of the site and to the south of an existing pedestrian access gate of the west boundary, some small fruit trees are positioned roughly centrally on the land to the rear of the building and a larger evergreen tree is positioned alongside the east boundary of the site at a point roughly half way along that east boundary. There is also a tree outwith the site to the east on the edge of the shared driveway of the neighbouring residential properties of 4 and 4A Ravensheugh Road.

The application site is identified as being within an area of predominantly residential character and amenity by Policy ENV1 of the adopted East Lothian Local Plan 2008. It is not within a conservation area. The building is not listed as being of special architectural or historic interest.

In October 2015 planning permission (Ref:15/00810/P) was sought for the erection of 3 houses, 1 flat and a garage on the site of the former Mrs Formans public house at 2 Ravensheugh Road. Planning permission was also sought for the formation of hardstanding areas and the erection of boundary enclosures. To facilitate the development, it was proposed to demolish the existing building of 2 Ravensheugh Road. That planning application was subsequently withdrawn by the applicant's agent.

Planning permission is now sought for the change of use of the public house/restaurant/manager's flat of Mrs Formans at 2 Ravensheugh Road to form 1 house and for the change of use of the grounds associated with that public house and manager's flat to form domestic garden ground to be used in association with the proposed house. No external alterations are proposed to be carried out to the existing building or the existing site, including its boundary enclosures.

The proposal would create a four bedroom house in what is the former public house/restaurant/manager's flat of Mrs Formans at 2 Ravensheugh Road.

The application drawings show an intention to carry out internal alterations to the building to facilitate its use as a house. Internal alterations to the building are not development and therefore do not require planning permission. Nor do they require listed building consent as the building is not listed as being of special architectural or historic interest. Thus, the internal alterations do not form part of the assessment of this application for planning permission.

Since the application was registered amended drawings have been received to provide full details of the layout of the existing building. This information is shown on amended application drawings submitted by the applicant's agent.

In February 2016 a further planning application 16/00059/P, submitted by the applicant, Clifton March, was registered for alterations and change of use of the public house/restaurant/manager's flat of Mrs Formans at 2 Ravensheugh Road to form 1 house, for the erection of 2 houses on the land associated with the former public house to the north of the former public house building, and for the formation of hardstanding areas and the erection of boundary enclosures. Planning application 16/00059/P stands to be determined on its own merits and will be reported on a subsequent Scheme of Delegation List.

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 C8 (Musselburgh Lagoons), ENV1 (Residential Character and Amenity), ENV7 (Scheduled Monuments and Archaeological Sites), DP2 (Design), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Also material to the determination of the application is the Scottish Government's policy on development affecting the historic environment given in Scottish Planning Policy: June 2014.

Paragraphs 135 and 136 of Scottish Planning Policy: June 2014 state that the historic environment is a key cultural and economic asset and a source of inspiration that should be seen as integral to creating successful places, and that Planning has an important role to play in maintaining and enhancing the distinctive and high quality irreplaceable historic places which enrich our lives, contribute to our sense of identity and are important resources for our tourism and leisure industry. Paragraph 151 goes on to state that there is a range of non-designated historic assets, which do not have statutory protection and these resources are an important part of Scotland's heritage and should be protected and preserved as far as possible in situ wherever feasible.

Also material to the determination of the application is Scottish Government's policy on development affecting an archaeological site given in Scottish Planning Policy: June 2014 and Planning Advice Note 2/2011: Planning and Archaeology.

With regard to archaeological sites and monuments Scottish Planning Policy states that they are an important finite and non-renewable resource and should be protected and preserved in situ wherever feasible. The presence and potential presence of archaeological assets should be considered by planning authorities when making decisions on planning applications. Where preservation in situ is not possible planning authorities should through the use of conditions or a legal agreement ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development. If archaeological discoveries are made during any development, a professional archaeologist should be given access to inspect and record them. Planning Advice Note 2/2011: Planning and Archaeology similarly advises.

Sixty six public representations to the application have been received. Many of these representations have been received from golfers around the world.

Sixty five of the representations raise objection to the proposals and of those some two-thirds use pro-forma text, with the remaining third taking the form of individual emails and letters. The grounds of objection raised, as summarised, are:

- i. any changes to the historically sensitive and significant location of the Musselburgh Old Golf Course and Mrs Formans at 2 Ravensheugh Road should be opposed as the location is one of golf's most important early sites and has an unlimited value to Musselburgh's golf tourism and economy;
- ii. Mrs Formans, which is the oldest golf pub in the world, is of national and international historical significance in golf and is important to the continued reputation of the Musselburgh Old Golf Course and thus also to golfing tourism in East Lothian and Scotland;
- iii. there is a significant cultural and heritage link between Mrs Formans and the Golf Course;
- iv. all alternative avenues for the continued operation of the premises as a public house should be explored or it should be used as a heritage centre;
- v. the application is incomplete and should show the full details of the entire plot;
- vi. no proposal that would have an adverse impact to the look of the Old Course or its viability should be supported;
- vii. any development that would change the nature of this historic building should be

resisted;

viii. the proposed development contravenes Local Plan Policies C8, DP4, ENV1, DP7, DP14, DP16 and DP22;

ix. the golf course is the oldest golf course in the world in continuous use, has hosted 6 Open Championships, and is one of the two most important centres in the history of early golf before the first world war;

x. the loss of this historic building would be an act of cultural vandalism;

xi. the change of use of the building would mean the loss of its connection with golf tourism that could never be reinstated;

xii. the site is at risk from flooding according to SEPA's flood risk maps;

xiii. the loss of trees from the site would be harmful to the view of the golf course;

xiv. there is a risk to the health and safety of residents of any house from mis-directed balls from the publicly accessible golf course straying onto the site; and

xv. there would be a reduction in heritage value of the Old Golf Course and the potential adverse impact on it that would result from pressure to change the layout of Mrs Formans green would lead irreversible changes to the look and viability of this world renown golf course.

The one remaining representation neither objects to nor supports the proposed development but comments that it is sad to hear of the impending closure of Mrs Formans adjacent to the historic Musselburgh Links, and that as a golfer it is a site that is enticing to visitors. The representation goes on to comment that the history of golf, a game borne in Scotland, should be preserved and shared with the world.

The application site is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. Policy ENV1 does not actively promote the development of land for new build residential development. The principal purpose of Policy ENV1 is to ensure that the predominantly residential character and amenity of existing housing areas is safeguarded from the adverse impacts of uses other than housing.

The application proposes the change of use of the existing building comprising the former public house/restaurant/manager's flat to form one house, and for the use of the land associated with that public house/restaurant/manager's flat as domestic garden ground to be used in association with the proposed house. No external alterations to the existing building or associated land are proposed.

Many of the objectors raise concern about the loss of the public house and restaurant use, as they consider that it is of national and international historical significance in golf and important to tourism within Musselburgh. However there is no presumption in either the approved or the adopted East Lothian Local Plan 2008 against the loss of the existing public house and restaurant use of the premises. Consequently it would not be reasonable to resist this proposal on the ground that it would result in the loss of the public house and restaurant.

The application site comprises an existing building and its associated land within the urban area of Musselburgh which are no longer required for their authorised use. In

terms of national, strategic and local planning policy it is a brownfield site. The proposed development would make new use of an existing building within the urban area of Musselburgh. The building was last in use as the public house and restaurant of Mrs Formans and its associated manager's flat. However, this use ceased to operate in 2014/2015 and the building has lain vacant since that time. The building is structurally intact and is part of the characteristic built form of this part of Musselburgh. If left un-used, or only put to limited use, it would be likely to fall into such a state of disrepair as to have a detrimental effect on the character and amenity of the area. Thus, the building is suitable for conversion and is no longer required for its original purpose. All of the land of the application site is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. There are residential and commercial properties to the east of the site and residential properties further away to the northeast on Hope Place and to the southwest on the south side of Linkfield Road. In this context the change of use of the existing building and its associated land to use as one house and associated garden ground would not, due to the location of the site, in principle be contrary to Local Plan Policy ENV1.

Thereafter, the material considerations in the determination of this application are whether or not the proposed scheme of development would be appropriate for the site and its surroundings and whether or not the site is capable of acceptably accommodating the proposed scheme of development, relative to its impact on the amenity of the area, including the impact on the character and appearance of the area, the residential amenity of neighbouring properties, whether or not the proposed development could be suitably accessed, and whether or not the proposed development would have an adverse impact on the Musselburgh Lagoons and the adjacent Musselburgh Old Golf Course.

In its use as a public house/restaurant and manager's flat there is no planning control over the level and frequency of movement of customers or of the occupiers of the manager's flat to and from the building. Thus, as contained within the building the proposed residential use of the former Mrs Formans public house and restaurant, and its associated manager's flat, as a substantial sized house, in terms of any impact of it on the locality would be likely to be significantly less than would the use of the building as a public house, restaurant and associated manager's flat.

Furthermore, other than for the removal of the existing sign boards and hanging signs, which form of development does not require planning permission, there would be no physical alterations to the existing building. Nor is the applicant proposing any alterations to the associated land including its boundary enclosures. Thus, the use of the existing building and associated land as one house with domestic garden ground would not have a harmful impact on the character and visual amenity of the area.

On the matter of the impact of the proposed development on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair.

The application is for the change of use of the existing building and no physical external alterations to the building are proposed, thus there would be no change to the existing impact of the building on daylight or sunlight received by neighbouring residential properties. On these matters of residential amenity the proposed development is consistent with Policy DP2 of the adopted East Lothian Local Plan 2008.

On the matter of overlooking it is the practice of the Council, as Planning Authority in the case of a proposed new development to apply the general rule of a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of

neighbouring residential properties and a 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential buildings.

The application is for the change of use of the existing building and no physical external alterations to the building are proposed, thus there would be no change to the existing windows of the building and their relationships with neighbouring residential properties. The use of the building as one house rather than a public house/restaurant/manager's flat would be likely to reduce the perception of overlooking due to the reduction in the number of unrelated people attending the site. The proposed development would not allow for harmful overlooking or loss of privacy to any neighbouring residential property. The occupiers of the proposed house would also benefit from an acceptable level of privacy. Accordingly, on these matters of overlooking and privacy the proposed development is consistent with Policy DP2 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Service has no comment to make regarding the proposed development and raises no objection to the application.

The Council's Environmental Protection Officer (Contaminated Land) advises that there are no contaminated land issues with the site. However, he advises that the site falls within an area of potential radon risk and as such radon monitoring is required to determine what radon mitigation measures would be required. The applicant's agent has been made aware of this matter.

Local Plan Policy C8 (Musselburgh Lagoons) states that the Musselburgh Lagoons will be retained primarily for recreational use. The Council supports the further development of and improvements to Musselburgh Racecourse and Old Golf Course. Development of new or existing uses or facilities will be assessed against their likely impact on: the character and amenity of Musselburgh Conservation Area; natural heritage interests, in particular the Special Protection Area; Musselburgh Old Golf Course and its setting; public access; traffic and parking and residential amenity.

The 4th hole of the Musselburgh Old Golf Course, known as "Mrs Forman's", and the 5th tee are located in close proximity to the west gable of the existing building and the west boundary wall of the application site.

The Musselburgh Old Golf Course has no formal designation as a Scheduled Monument or Designed Landscape, and carries no special planning protection on account of its cultural value or historic importance.

Nonetheless, Scottish Planning Policy: June 2014 states that there is a range of non-designated historic assets, which do not have statutory protection and these resources are an important part of Scotland's heritage and should be protected and preserved as far as possible in situ wherever feasible.

Furthermore, in 2007 the Scottish Government reporter, in his findings on the evidence of the public inquiry into planning application 05/00661/FUL for development of a floodlit all weather and extended turf track and various associated works at Musselburgh Racecourse that is also located to the west of the current application site, concluded that although the Musselburgh Old Golf Course has no formal designation and carries no special planning protection on account of its cultural value or historic importance, its high value as a 'must play' golf course is attributable to its history as, reputedly, the oldest golf course in the world, and that this value lies in its cultural heritage value and primarily in its associative characteristics (i.e. the history, traditions, personalities and memories associated with it), and that the development the subject of that public inquiry would

result in serious and irreversible adverse heritage impacts to the setting and character of the historic Golf Course.

The proximity of the Musselburgh Old Golf Course to the application site, the potential impact of the use of that part of the golf course on the amenity of future occupants of the proposed house and the consequent potential for the proposed development to impact on the setting and character of the historic Golf Course are material considerations in the determination of this application for planning permission.

Due to the proximity of the application site to the 4th hole, known as "Mrs Forman's", and the 5th tee there is potential for hazards, particularly from stray golf balls, to impact on the amenity of the occupiers of the proposed house through wayward golf balls 'over-sailing' beyond the green towards the west gable wall of the building, the garden and pedestrians exiting the existing pedestrian gate in the west boundary of the site.

Enjoy Leisure, the operators of the Musselburgh Old Golf Course raise concerns that the proximity of the 4th hole, known as "Mrs Forman's", and the 5th Tee of the Golf Course to the proposed house and its associated garden ground would result in significant risk to the occupiers of the proposed house from wayward golf balls 'over-sailing' the 4th hole and hitting the windows of the west elevation wall of the proposed house or landing in its garden. They also raise concerns that as a consequence of this hazard, and what may be considered to be a nuisance by the occupiers of the proposed house, there would be increased pressure to change the layout of the 4th hole either by shortening or severely altering it, which would have a detrimental impact on the integrity, layout and historical value of what is the most iconic hole of the Golf Course, that itself is the oldest golf course in the world, and would also result in a change to the relationship between the existing public house building and the Golf Course, which again is of significant heritage value. They explain that the west gable of the public house and the west boundary wall, gate and hedge are known worldwide and provide a backdrop for this iconic hole of the Golf Course, and that the relationship between Mrs Formans and the Golf Course dates to the early 19th century and has historically included the selling of refreshment from one of the ground floor windows of the west gable elevation of the building to golfers playing the 4th hole. The 4th hole is the signature hole of the Musselburgh Old Course and is best known, and certainly the most testing hole.

The comments from Enjoy Leisure are supported by a statement from a PGA Professional golfer of 7 years experience, who explains that the 4th hole is a par 4 of 431 yards and of some difficulty. He goes on to explain that the challenges inherent in the length of the 4th hole and the approach to its green combined with the mixed abilities of the golfers playing this public course increases the probability of wayward shots being played on the approach to the green and thus there is significant risk to any residential use from golf balls landing in the garden and hitting the windows of the west gable of the building. However, he goes on to explain that at present the existing rubble stone boundary wall and the existing cypress hedge of the west boundary of the site both provide a barrier to prevent golf balls entering the land of the application site. It is his opinion that the existing hedge would need to be retained at a height of some 4.0 metres minimum and at a thickness of no less than 1 metre to act as an effective barrier to wayward golf balls.

Thus, the considerations here are two-fold; whether or not the matter of 'over-sailing' golf balls would be harmful to the amenity of the occupiers of the proposed house and whether or not there would be any harmful impact on the cultural heritage value of the setting and character of the Old Golf Course.

In respect of the matter of wayward golf balls hitting the west gable elevation and thus the

windows of that elevation of proposed house, there are no physical changes proposed to this elevation wall of the existing building and thus it would remain in its current form with two ground floor and two first floor windows. As the west elevation wall of the existing public house/restaurant/manager's flat it could presently be hit by 'over-sailing' golf balls. Whether the building is used as a public house/restaurant/manager's flat or as one house there would be no different impact on this elevation wall than could already occur. Thus, there would be no change to the existing amenity impacts or hazard to the building and its occupiers than could already occur.

If converted to use as a house and occupied as such, new windows or other glazed openings could be formed in the west gable elevation wall without the need for further planning permission. Such new windows or other glazed openings would result in there being an increased risk to the occupiers of the proposed house from over-sailing golf balls hitting the windows of the new house and thus also a detrimental impact to their amenity. Furthermore, the formation of such additional openings could result in increased pressure to change the layout of this part of the Golf Course, which would have a profound and detrimental impact on the integrity, layout and historical value of Musselburgh Old Golf Course. Thus, in order to protect the amenity of the occupiers of the proposed house and the cultural heritage value of the setting and character of the Musselburgh Old Golf Course permitted development rights for the formation of additional windows or other openings in the west gable elevation of the proposed house should be removed. This detail could be controlled by a condition attached to a grant of planning permission for the proposed development.

In respect of the matter of the impact of potential wayward golf balls to impact on the amenity of the occupiers of the proposed house through their use of the existing pedestrian gate in the west boundary of the site, this pedestrian access from the site onto the eastern edge of the golf course and racecourse land is long established, and whether used by customers of the existing authorised public house use of the site or by the occupiers of the proposed house to be formed through the conversion of the building to residential use there would be no change to the existing circumstances. Thus, the residential use of the building would not result in any different impact for pedestrians using the existing pedestrian access gate than could already occur. Thus, there would be no change to the existing amenity impacts.

In respect of the matter of wayward golf balls 'over-sailing' the 4th hole onto the land at the rear of the existing building, which would be used as domestic garden ground for the proposed house, the existing rubble stone boundary wall and cypress hedging at present provide an effective barrier between the authorised public house use of the application site and the golf course. The PGA Professional golfer advises that if the existing boundary wall is retained at its current height, and the existing cypress hedging is retained at a minimum of some 4 metres in height above ground level and at a minimum thickness of 1 metre this would be a sufficient barrier between the proposed residential use and the existing established golf course use and should reasonably prevent 'over-sailing' golf balls from landing in the garden of the proposed house.

Notwithstanding the PGA Professional golfer's advice that the hedge should be retained at a minimum thickness of 1 metre, the actual hedge is some 4.3 to 4.6 metres thick on average and of that some 1.8 - 2.4 metres of its overall inner growth is brown. The landscape advice from Policy & Projects is that in order to ensure that the hedge would be retained and would not be cut back to such an extent that would lead to the hedge dying, the existing hedge should be maintained at a minimum thickness of 4 metres.

Thus in order to protect the amenity of the occupiers of the proposed house and the cultural heritage value of the setting and character of the Musselburgh Old Golf Course

the existing west boundary wall should be retained at its current height of some 1.7 metres, and the existing cypress hedging along the west boundary of the site should be retained for its full length at a minimum height of 4 metres above the ground level of the site on which it is planted and at a minimum thickness of 4 metres. This requirement could be controlled by a condition attached to a grant of planning permission for the proposed development.

Subject to the aforementioned planning controls preventing 'over-sailing' golf balls from landing in the garden of the proposed house, residents of the new house would benefit from an acceptable degree of residential amenity. Moreover, without the hazard of 'over-sailing' golf balls from landing in the garden of the proposed house, there would not be increased pressure to change the layout of the 4th hole either by shortening or severely altering it. Thus, subject to the aforementioned planning controls, the proposed development would not have a detrimental impact on the cultural heritage value of the setting and character of the Musselburgh Old Golf Course. Accordingly, on these matters of amenity and the protection of the non-designated historic asset that is the Musselburgh Old Golf Course the proposed development is consistent with Policies C8 and DP2 of the adopted East Lothian Local Plan 2008.

There is no vehicular access or off-street parking spaces associated with the authorised use of the building and land of 2 Ravensheugh Road as a public house/restaurant/manager's flat. Nor can any vehicular access or off-street parking spaces be provided due to the arrangement of the existing buildings on the site. At present any parking demand generated by the use of the public house/restaurant and the occupation of the manager's flat has to be met on-street, and there is a small public parking area located to the south of the application site on the north side of the Levenhall Roundabout junction.

The Council's Road Services advises that the proposed change of use to form one house would generate a similar or lesser trip profile and parking demand than would the use of the building as a public house and restaurant. Thus, in light of this, Road Services raise no objection to the proposed development and are satisfied that parking demand and vehicle movements associated with the proposed house would not result in a road safety hazard. Accordingly, on these considerations the proposed development does not conflict with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

On all of these aforementioned considerations the proposed change of use of the existing public house/restaurant/manager's flat and their associated land to use as one house and associated domestic garden ground would not harm the amenity or character and appearance of the immediate area, the cultural heritage value of the Musselburgh Old Golf Course, or the amenity of any neighbouring residential property. There is sufficient land within the site to accommodate the proposed development and to provide the proposed house with a sufficient sized garden and adequate parking provision without there being an overdevelopment of it. Development of the site would not result in any loss of open space important to recreation or amenity requirements in the area. Accordingly, the proposed development does not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies C8, DP2 and ENV1 of the adopted East Lothian Local Plan 2008 and Scottish Government's policy on development affecting the historic environment given in Scottish Planning Policy: June 2014.

The application site is not within a flood risk area as defined by the Scottish Environmental Protection Agency's Indicative River and Coastal Flood Map (Scotland). However, it is in close proximity to such an area. Thus, on the matter raised by objectors that the application site is at risk from flooding, the Scottish Environmental Protection

Agency (SEPA) and the Council's Structures, Flooding and Street Lighting Team Manager, who provides internal advice on flood risk matters, have been consulted on the proposed development.

SEPA advises that the application site lies outwith the flood risk area and as such is potentially at low likelihood of flooding. Thus, SEPA raises no objection to the proposed development.

SEPA does however note that the adjacent land of the golf course/racecourse is within an area at medium likelihood of flooding and thus they recommend that, where feasible, floor levels of properties are raised above surrounding ground levels. This information has been provided to the applicant's agent.

The Council's Structures, Flooding and Street Lighting Team Manager agrees with SEPA's findings and raises no objection to the proposed development.

The Council's Archaeology Officer advises that the existing building on the application site dates to at least the mid 19th century. It lies in close proximity to a prehistoric burial site and other prehistoric burials have been found further afield in the near vicinity. The application site is close to the Inventory Battlefield of the Battle of Pinkie Cleugh and a late 19th century brickworks. As a result there is potential for previously unknown buried archaeological remains to lie within the proposed development site and the change of use of the existing building has the potential to result in loss/alteration to the existing historic building. Thus, the Archaeology Officer recommends that a programme of archaeological works (Historic Building Survey (Basic)) be secured prior to the commencement of development. This can be secured through a condition attached to a grant of planning permission for the proposed development. This approach is consistent with Scottish Planning Policy: June 2014, Planning Advice Note 2/2011: Planning and Archaeology and with Policy ENV7 of the adopted East Lothian Local Plan 2008.

CONDITIONS:

- 1 No development shall take place until the applicant has, through the employ of an archaeologist or historic buildings specialist, secured the implementation of a programme of archaeological work (historic building survey (basic)) on the building hereby approved to be converted to form 1 house in accordance with a written scheme of investigation which the applicant shall submit to and have approved in advance by the Planning Authority.

Reason:

To record upstanding historical archaeological remains and to determine any further areas for more detailed recording.

- 2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, or any subsequent Order amending, revoking or re-enacting that Order, no further windows or other openings shall be formed in the west gable elevation of the house hereby approved to be formed through the conversion of the existing building, other than those already formed in that elevation, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of safeguarding the amenity of the occupiers of the proposed house.

- 3 The west boundary wall of the site shall be retained in situ and maintained at its existing height of some 1.7 metres and the cypress hedge that is immediately to the east side of that boundary wall shall be retained in situ and maintained at a minimum height of 4 metres above the ground level of the site on which it is planted and the thickness of the hedge shall be maintained at a minimum of 4 metres.

In the event that the existing hedge, dies, becomes seriously damaged or diseased it shall be replaced in the next planting season with mature hedge plants of the same or similar species to establish a hedge of the same length, height and thickness as specified in this condition. Details of the replacement hedge plants shall be submitted to and approved in writing by the Planning Authority prior to their planting and thereafter the replacement hedge shall be maintained in accordance with the requirements set out above.

Reason:

In the interests of safeguarding the amenity of the occupiers of the proposed house.

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).*

*[*Pages 77 - 80 of the public document pack]*

REPORT TO: Planning Committee
MEETING DATE: Tuesday 19 April 2016
BY: Depute Chief Executive (Partnership and Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

4

Application No. **15/00760/PPM**

Proposal Planning permission in principle for residential development with associated infrastructure and landscaping

Location **Former Fire Service Training School
Main Street
Gullane
East Lothian
EH31 2HG**

Applicant Scottish Fire and Rescue Service

Per Barton Willmore

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

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

As a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 15/00003/PAN) and thus of community consultation prior to this application for planning permission in principle being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that some 120 people attended the pre-application public exhibition, which was held at the Gullane Village Hall on 27 May 2015, and that those attendees

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

The application site comprises the whole of the former Scottish Fire Service Training School (SFSTS) on the south side of Main Street, Gullane. It is made up of a number of different buildings of differing architectural form. The principal building on the site is a substantial four storey building of traditional form and design which is of architectural merit, known as Henderson House. It fronts onto Main Street. To the east and south of this principal building are other more modern buildings including accommodation blocks, a garage and workshop complex, a gymnasium and a training centre, which are built around a courtyard complex.

The site is covered by Policy INF4 of the adopted East Lothian Local Plan 2008. Policy INF4 states that the necessary training activities undertaken at the SFSTS are recognised. The Council will ensure that any adverse environmental impacts are minimised, within the statutory powers available to it. The Council will also have regard to the impact of development proposals in adjoining areas on the legitimate operational requirements of the SFSTS.

The applicant's supporting statement informs that the establishment of the Scottish Fire and Rescue Service in April 2013 brought together the collective skills and experience from across Scotland's previous eight fire and rescue services. In light of this national restructuring and against a backdrop of reduced budgets, the Scottish Fire and Rescue Service is rationalising its estate across the country.

The former Scottish Fire Service Training School in Gullane ceased operation in March 2015 as part of that restructuring, with training now delivered at facilities in a single centralised location in Cambuslang. Given this, the Scottish Fire and Rescue Service seeks planning permission to redevelop the site to better enable a capital receipt from the sale of it.

The site is bounded to the east by the C111 public road with residential properties beyond, to the south by both a telephone exchange and the residential properties of Garleton Court, to the west by the public road of Muirfield Drive and to the north by Main Street.

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

An indicative masterplan has been submitted with the application indicating how some 125 residential units could be accommodated on the application site including for the retention of Henderson House, converted into flats, with the remainder of the buildings on the site removed to make way for new residential units.

It is also indicated that a SUDS pond be accommodated on the southern part of the site and how an area of recreational open space could be accommodated centrally within the site. It is also indicated how footpath linkages from the site onto the C111 public road to the east and Garleton Court to the south could be formed and how landscape planting could be retained and enhanced.

The indicative masterplan indicates that access to the site could be taken from Main Street and Muirfield Drive and how an existing access into the site from Muirfield Drive could also be used.

Since the application was registered a revised indicative masterplan has been received indicating open space and SUDS areas and showing some road widening to the internal access roads.

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 2 February 2016 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission in principle. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed housing development to be the subject of an EIA.

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

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

Policy 5 (Housing Land) and 6 (Housing Land Flexibility) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies, DP1 (Landscape and Streetscape Character), DP13 (Biodiversity and Development Sites), DP14 (Trees on or Adjacent to Development Sites), DP17 (Art Works-Percent for Art), DP20 (Pedestrians and Cyclists), INF3 (Infrastructure and Facilities Provision), INF4 (The Scottish Fire Service Training School, Gullane), H4 (Affordable Housing), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

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

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

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

The principle in delivering this through the Development Management function is contained in paragraph 33 of Scottish Planning Policy in which it is stated that where

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

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

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

SESplan Policy 6 states that each planning authority in the SESplan area shall maintain a five years effective housing land supply at all times. The scale of this supply shall derive from the housing requirements for each Local Development Plan area identified through the supplementary guidance provided for by SESplan Policy 5. For this purpose planning authorities may grant planning permission for the earlier development of sites which are allocated or phased for a later period in the Local Development Plan.

At its Cabinet meeting of 10 December 2013, the Council agreed that at that time East Lothian had a shortfall in its effective housing land supply.

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.

Further to this the Council approved (February 2016) a revised Housing Land Supply: Interim Planning Guidance which acknowledged the continuing housing land supply shortage and set out the consideration of sites supported by the approved Draft Proposed Local Development Plan (as amended).

Material to the determination of the application are the written representations to the proposals. Twelve written objections and 4 written representations have been received. Copies of the written objections and representations are contained in a shared electronic folder to which all Members of the Committee have had access. Two of the written representations take the form of petitions, one having 30 signatories and the other having 17 signatories.

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

* it would lead to additional traffic generation that would be too much for the local road network to cope with resulting in a road and pedestrian safety hazard;

- * a footpath link with Garleton Court should be located elsewhere as it would reduce open space and lead to a road and pedestrian safety hazard;
- * it would lead to a loss of privacy and daylight to neighbouring residential properties;
- * it would result in the loss of trees;
- * it would lead to flooding and drainage problems;
- * it would harmfully impact on school and healthcare capacity; and
- * it would impact on house prices.

The written representations state that the proposed development would have an impact on schools, the road network, that Henderson House should be put to commercial use, that the site should include social housing and raise matters of drainage, flooding and impact on trees.

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

Gullane Area Community Council, as a consultee on the application, advises that it is encouraged to note the proposed retention of the structure of the former hotel building and not to provide access to the site from the road to West Fenton It is, however, very concerned about the proposed vehicular access from Muirfield Drive as this is used as a main access to the primary school and provides the only vehicular access to a significant number of residential properties. The Community Council advises that it would be essential that during the construction period unobstructed vehicular and pedestrian access to all the properties served by Muirfield Drive should be maintained at all times and that both during the construction period and after completion of the development stringent conditions should be imposed to ensure the safety of pedestrians, including significant numbers of school children.

The Community Council further advises its disappointment that there is no provision for any small business facilities within the development, that state provision should be made for affordable housing and that a high standard of design should be achieved.

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

The land of the site is identified as Proposal NK6 of the Draft Proposed Plan approved by Council on 17 November 2015. As such, in respect of the provisions of Paragraph 34 of SPP, the proposal could not be considered to 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), and the revised Interim Planning Guidance, 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 facilities and other essential

infrastructure.

In that the site now under consideration is housing site Proposal NK6 of the approved draft Proposed Plan, the Council recognises its potential for residential development. It is therefore appropriate to determine this application with due consideration of that recognised residential potential, subject to the above considerations and assessments.

Also, in being 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 identified site NK6 of the approved draft Proposed Plan is a material consideration to be weighed against the considerations of national, strategic and local planning policy.

As the site is brownfield land within an existing settlement, the relevant provisions of SESplan Policy and the Interim Planning Guidance on greenfield land do not apply.

Site NK6 of the draft Proposed Plan is an identified housing site. Although specifically allocated for housing, Proposal NK6 of the draft Proposed Plan states the site is additionally suitable for some employment or tourism uses.

A supporting Planning Statement has been submitted with the application. In this statement the applicant's agents advise they considered the potential for employment and tourism use on the site but have concluded they are neither practical nor viable based on their experience of similar sites in comparable locations across Scotland and based on their understanding of the employment market in East Lothian and the tourism industry in the region.

In terms of employment use the supporting Planning Statement advises as follows. There are no agglomeration benefits to locating in Gullane or economies of scale to benefit from. The site is also not located in close proximity to the strategic transport network and to a significant extent the site's geographic location was one of the main reasons for its closure in the first place. There is a low labour pool within Gullane to draw from with a small total population of 2,568. The latest employment figures for Gullane are based on the 2011 census, at that point unemployment in Gullane stood at 2.6% compared to a Scottish average at the time of 4.8%. Importantly, the approved South East Scotland Strategic Development Plan states that employment development in East Lothian should be focused around the Economic Corridor that stretches from Musselburgh to Dunbar in the east. Gullane falls significantly outside of this area and away from the strategic road network. SESPlan also identifies intensification in current employment locations as a more effective method of achieving employment development. Furthermore, due to the high level of oversupply of existing office accommodation within East Lothian, with low levels of demand, weak take up, little prospect of rental growth and poor investor sentiment, commercial occupier interest is not envisaged.

In terms of tourism use, the supporting Planning Statement advises further that hotel potential in Gullane is limited, stating 75% of visitors to East Lothian visit only for day trips and hotel stays in the area have declined significantly since 2009/10 from 1,750,000 visits to 1,500,000 in 2013/14. It is also noted in the 2012 'Employment Opportunities in the Public Sector Submission from East Lothian Council to the Scottish Government Finance Committee' that hotel development in East Lothian should be focused on resort style hotels (such as Archerfield which is located 1.5km east of Gullane). Resort style hotels provide a luxury facility and offer a wide range of facilities and activities such as

spas and swimming pools. Whilst some resorts operate on a seasonal basis, the majority now try to operate all year round. They tend to be larger than standard hotels and provide larger numbers of rooms (Gleneagles 232 rooms, St Andrews 209 rooms). The Henderson House building is simply not large enough, nor does it provide the range of onsite facilities to meet the criteria of a resort style hotel or have the potential to be developed as such and is likely to be unviable. Notably there are already 3 hotels in Gullane (Greywalls, the Mallard Hotel and The Golf Inn Hotel) providing some 55 bedrooms, along with 6 B&Bs. Archerfield Hotel, just outside Gullane, towards North Berwick, provides a range of tourist accommodation and thus additional hotel space does not seem likely to be viable. Hotel occupancy is seasonal and notably lower in both villages and seaside towns when compared with cities. In terms of hotel occupancy information it is highly unlikely that an additional hotel in Gullane would be in significant demand.

In summary the supporting Planning Statement concludes that the application site is not physically capable of accommodating all of circa 100 residential properties, dedicated employment use and a hotel, stating that with a focus on resort style hotels, the implications are that the whole site would potentially be required for such a use.

The Council's Business Development Team Leader advises that based on the fit with the strategic aims and objectives of the Economic Development Strategy 2012-22 of local job creation and to be the best place in Scotland to set up and grow a business, proposals for the site should include the development of new employment land and that further exploration and analysis of potential tourism development opportunities should be undertaken.

However, Proposal NK6 of the draft Proposed Plan only states that the site is suitable for some employment and tourism uses, as an addition to its allocation for housing use. It does not allocate the site for employment and tourism use nor does it stipulate any employment or tourism use must be provided on the site. Therefore the Business Development Team Leader's advice must be considered in the context that there is no planning allocation or policy in place with sufficient materiality to require provision of some employment and/or tourism use of the site. Proposal NK6 does however support the principle and indeed allocates the site for residential use.

The application site is covered by Policy INF4 of the adopted East Lothian Local Plan 2008. Policy INF4 states that the necessary training activities undertaken at the Scottish Fire Service Training School are recognised and that the Council will ensure that any adverse environmental impacts are minimised, within the statutory powers available to it.

It should be noted that the purpose of Policy INF4 is to ensure that any environmental impacts that arise due to firefighting training are minimised within what is predominantly a residential area, whilst also having regard to the impact of development proposals in adjoining areas to ensure that they would not unreasonably constrain the legitimate operational requirements of the Training School. It does not safeguard the site for continued fire service use. Therefore the principle of an alternative use for the site is not contrary Policy INF4 of the adopted East Lothian Local Plan 2008. Moreover, as the site is now redundant to its owners the Scottish Fire Service since March 2015, the site has been vacated and has lain empty since. The Scottish Fire and Rescue Service have confirmed they are seeking to redevelop the site for an alternative use.

The site is within a predominantly residential area, being surrounded by residential properties which are within an area defined by Policy ENV1 of the adopted East Lothian Local Plan 2008 as being of predominantly residential character and amenity. A residential development of the application site would ensure that the predominantly

residential character and amenity of the area is safeguarded and it would be compatible with the surrounding existing residential use of the area.

In terms of a proposed residential development of the site, it is noted that:

- the retention and redevelopment of Henderson House would preserve the significant part of the existing urban form of this part of Gullane and such use would be compatible with surrounding residential properties;
- the site is close to existing local bus services;
- local facilities within the settlement, including shops, a school and a medical facility are all within walking distance of the site;
- vehicular and pedestrian access is provided directly from Main Street to the north and Muirfield Drive to the west with potential for further pedestrian linkages to the wider area;
- the site is in single ownership and suffers no physical constraint which would prevent or inhibit its development.

Moreover a residential development of the application site must also be considered in relation to the Council's previous recognition of a shortfall in the effective housing land supply in East Lothian.

In respect of SESplan Policy 6, approval of the draft Proposed Plan results in the approval in general principle of sites with the potential to provide an effective five year housing land supply. The selection of sites included a site assessment process.

The potential of residential development of the site is therefore supported by the approved, amended draft Proposed Plan such as to contribute to the effective five year housing land supply and help meet that requirement of SPP and SESplan Policy 6.

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

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

In respect of open space and play provision, the Council's Principal Amenity Officer advises that the area of open space indicatively shown to be provided would be set out in such a way as to provide a sufficient area of open space for informal recreation for a proposed development of 125 residential units, consistent with Policy C1 of the adopted East Lothian Local Plan 2008.

On the above considerations, including the conversion of the existing building, the applicant demonstrates that the site has capacity for development of up to 125 housing units in a layout of appropriate urban design qualities and with an appropriate provision of open space.

Regarding formal play provision, the Principal Amenity Officer advises that it would be

more beneficial to enhance the existing play area at Recreation Park, which is on the west side of Muirfield Terrace a short distance to the southwest of the application site, with additional facilities rather than provide a new facility within the application site. The applicants have confirmed in writing that they are willing to contribute a sum of £45,000 as the amount agreed with the Council's Principal Amenity Officer for enhancement of the existing play area at Recreation Park. This contribution can be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal 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 Council securing this appropriate developer contribution the proposed development is consistent with Policy C2 of the adopted East Lothian Local Plan 2008.

The Council's Road Services raise no objection to the application, being satisfied that traffic likely to be generated by the proposed development could be satisfactorily accommodated on the local road network and thus it would not result in a road or pedestrian safety hazard.

Roads Services recommend that:

- * an uncontrolled pedestrian crossing point be formed on Muirfield Drive to provide a suitable safe pedestrian link to provide connectivity and access to Gullane Primary School from the proposed development;
- * a continuous 2 metre wide footway be provided on the east side of Muirfield Drive along the entire length of the site frontage;
- * a continuous 2 metre wide footway be provided on the west side of the C111 public road from its junction with the A198 (Main Street) to the pedestrian access link into West Fenton Gait;
- * raised table junctions be formed at the vehicular access junctions from the site with Muirfield Drive;
- * parking for the proposed residential units be provided at a rate as set out in the East Lothian Council Standards for Development Roads – Part 5 Parking Standards;
- * all access roads conform to East Lothian Council Standards for Development Roads in relation to roads layout and construction, footways & footpaths, parking layout and number, street lighting and traffic calming measures;
- * vehicle accesses to private parking areas (i.e. other than driveways) be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;
- * driveways having minimum dimensions of 6 metres by 2.5 metres and double driveways having minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 metres length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;
- * within residential private parking areas the minimum dimensions of a single parking space being 2.5 metres by 5 metres and all visitor parking spaces within these areas being clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

* cycle parking be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed;

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

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

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

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

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

In respect of landscape matters the Council's Policy and Projects team is satisfied that the proposed landscape planting shown on the indicative masterplan would provide an acceptable landscape setting for the proposed development. However the Policy and Projects team does advise that the location of elements of the proposed built development as shown on the indicative masterplan could result in the loss of mature trees on the site which have significant visual amenity value. As these trees are of significant amenity value it is recommended that they should be retained where possible. Therefore development on the site must be carried out in accordance with British Standard BS5837 2012 "Trees in relation to design, demolition and construction ~ Recommendations' sections 4, 5, 6, 7 and 8. This can be made a condition of any grant of planning permission in principle, subject to which it complies with Policy DP14 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Health service raises no objection to the proposals. It does, however, advise that there is the possibility of contamination of the site. Consequently Environmental Health recommends that a comprehensive contaminated land investigation be carried out. This can be secured by a condition of grant of planning permission in principle for the proposed development, subject to which the proposed development would be acceptable in principle on this matter.

Due to the characteristics of the area and the presence of the buildings as good habitats for bats, it is entirely possible that bats could be present on the site. Because of this the Council's Biodiversity Officer recommends that a bat survey should be carried out to establish the extent of presence of this protected species. He advises that any mitigation measures required by the surveys should be agreed prior to any works commencing on the site. This can be secured through a condition imposed on the grant of planning permission. Subject to this planning control the proposed development does not conflict with Policy DP13 of the adopted East Lothian Local Plan 2008.

The Scottish Environment Protection Agency (SEPA) raises no objection to the principle of the proposed development on the grounds of potential flood risk. In terms of surface water drainage SEPA have appraised the applicant's submitted drainage statement and

is satisfied that the applicant is providing the required level of treatment for a development of this size and that there is sufficient space within the development to accommodate a SUDS system onsite. SEPA therefore raise no objection to the application on the grounds of surface water drainage subject to the imposition of a condition on a grant of planning permission in principle that full details of the finalised SUDS scheme is submitted to and approved in advance by the Planning Authority prior to the commencement of development.

The Council's Manager - Structures, Flooding and Street Lighting is also satisfied that the proposed development could be carried out without unacceptable risk of flooding.

Scottish Water has made no comment on the application.

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

The Council's Depute Chief Executive, Resources and People Services informs that the application site is located within the school catchment areas of Gullane Primary School and its pre-school, and North Berwick High School.

He advises that Gullane Primary School and its pre-school and North Berwick High School do not have sufficient capacity to accommodate children that could arise from the proposed development. Thus he objects to the application on the grounds of lack of permanent capacity at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of £72,266.50 towards the provision of additional school accommodation at Gullane pre-school (£578.12 per unit), £779,296.25 towards the provision of additional school accommodation at Gullane Primary School (£6,234.37 per unit) and a contribution of £991,666.25 (£7,933.33 per unit) towards the provision of additional school accommodation at North Berwick High School.

The required payment of a financial contribution of a total of £1,843,229 towards the provision of additional accommodation at Gullane Primary School and its pre-school and North Berwick High School can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding necessary school capacity. The applicant confirms in writing that they are willing to enter into such an agreement.

The Council's Economic Development & Strategic Investment Manager advises that a grant of planning permission in principle would require to be subject to provision of 25% of all housing units to be developed as affordable housing. They should be provided on site or, if it can be demonstrated to the Council that this, or the off-site provision of the required affordable units is not practicable, a commuted sum payment should be made to the Council in lieu of such an on or off-site provision. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning

Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant confirms they are willing to do, the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

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

In the context of the site being land of the site of Proposal NK6 of the approved Draft Proposed Local Development Plan as amended, and in that its impacts in respect of amenity and technical considerations are acceptable in themselves or can be mitigated through the appropriate use of planning conditions and agreements and the submission of detailed plans in respect of those conditions, the balance of the material considerations of this case support the proposals. In this it is consistent with Scottish Planning Policy: June 2014 and SESplan Policy 6. It does not conflict with Policy INF4 of the adopted East Lothian Local Plan 2008.

RECOMMENDATION

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

1. The undernoted conditions.

2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to:

(i) secure from the applicant a financial contribution to the Council of £1,843,229 (£14,745.83 per residential unit) towards the provision of additional capacity at Gullane Pre-School, Gullane Primary School and North Berwick High School;

(ii) secure from the applicant the provision of 25% of the final approved number of residential units within the application site as affordable residential units or if it can be demonstrated to the Council that this, or the off-site provision of 25% of the final approved number of residential units as affordable units is not practicable, to secure from the applicant a commuted sum payment to the Council in lieu of such an on or off-site provision; and

(iii) secure from the applicant a financial contribution to the Council of £45,000 for the provision of additional play equipment and/or for some other enhancement of the play area at Recreation Park, Muirfield Terrace, Gullane.

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient school capacity at Gullane Pre-School, Gullane Primary School and North Berwick High School, a lack of provision of affordable housing and a lack of formal play provision, contrary to, as applicable, Policies INF3, H4 and C2 of the adopted East

CONDITIONS:

- 1 The submission for approval of matters specified in conditions of this grant of planning permission in principle in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) shall include details of the siting, design and external appearance of the residential units, the means of access to them, the means of any enclosure of the boundaries of the site and the landscaping of the site. Those details shall generally comply with the Indicative Masterplan docketed to this planning permission in principle, but additionally shall comply with the following design requirements:
 - a. The residential units shall be predominantly two storeys in height and no higher than three storeys in height and the external finish to their walls shall be predominantly rendered and coloured in accordance with a co-ordinated colour scheme that respects the layout of the development;
 - b. Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street;
 - c. There shall be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary street frontage;
 - d. The detailed design of the layout shall otherwise accord with the principles set out in the Council's Design Standards for New Housing Areas and with Designing Streets;
 - e. Notwithstanding that shown in the Indicative Masterplan docketed to this planning permission in principle, there shall be at least a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing or proposed neighbouring residential properties;
 - f. parking for the residential development hereby approved shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads- Part 5 Parking Standards;
 - g. all access roads shall conform to East Lothian Council Standards for Development Roads and Design Standards for New Housing Areas in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming measures;
 - h. driveways shall have minimum dimensions of 6 metres by 2.5 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 metres length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;
 - i. within residential private parking areas the minimum dimensions of a single parking space shall be 2.5 metres by 5.0 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;
 - j. vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;
 - k. cycle parking be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed;
 - l. the proposed development shall be carried out in strict accordance with British Standard BS5837_2012 "Trees in relation to design, demolition and construction ~ Recommendations' sections 4, 5, 6, 7 and 8 and an arboricultural survey demonstrating this shall be submitted with application(s) for approval of matters specified in conditions.

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment and in the interests of road safety.

- 2 No more than 125 residential units are approved by this grant of planning permission in principle. Unless otherwise agreed in writing with the Planning Authority the annual completion rates shall be

those set out by the applicant, i.e. 43 in year 2016/2017, 30 in year 2017/2018, 22 in year 2018/2019, and 30 in year 2019/2020 and any slippage in any single year shall revert to year 2020/2021 or beyond, and not be added to the subsequent year.

Reason:

- 3 To ensure sufficient education capacity can be provided for the pupil product of the development. No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall be generally based on the landscape proposals shown in principle on the docketed Indicative Masterplan and shall otherwise fully accord with requirements of Condition 11 above.

It shall also provide details of: the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall also include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

- 4 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. A Green Travel Plan shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved. The Green Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

Reason:

- 5 In the interests of ensuring sustainable travel patterns in respect of the development. A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control construction traffic and shall include hours of construction work and details of wheel washing facilities to be provided. Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Reason:

- 6 To minimise the impact of construction activity in the interests of the amenity of the area. Prior to the occupation of any of the residential units hereby approved:
- a. an uncontrolled pedestrian crossing point shall be formed on Muirfield Drive to provide a suitable safe pedestrian link to provide connectivity and access to Gullane Primary School from the proposed development;
 - b. a continuous 2 metre wide footway shall be provided on the east side of Muirfield Drive along the entire length of the site frontage;
 - c. a continuous 2 metre wide footway shall be provided on the west side of the C111 public road from its junction with the A198 (Main Street) to the pedestrian access link into West Fenton Gait; and
 - d. raised table junctions shall be formed at the vehicular access junctions from the site with Muirfield Drive;

Details of the new uncontrolled pedestrian crossing point, continuous 2 metre wide footways on the east side of Muirfield Drive and west side of the C111 public road and the raised table junctions shall be submitted to and approved in advance by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 7 The discharge of surface water from the application site shall be treated in accordance with the principles of the SUDS Manual (C697), which was published by CIRIA in March 2007.

Details of the proposed integrated sustainable urban drainage scheme (SUDS) for the application site shall be submitted to and approved in writing by the Planning Authority following consultation with the Scottish Environment Protection Agency and such detail shall provide for two levels of treatment.

The integrated sustainable urban drainage scheme (SUDS) for the application site shall thereafter be fully implemented in accordance with the details so approved.

Reason:

To ensure the provision of a satisfactory sustainable urban drainage scheme for the application site.

- 8 The presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority. At this stage, further investigations may have to be carried out to determine if any additional remedial measures are required. Any such remedial measures shall be fully implemented prior to the occupation of any of the residential units, unless otherwise approved in writing by the Planning Authority.

Reason

To ensure that the site is clear of contamination prior to the occupation of the residential units.

- 9 Prior to the commencement of development the applicant, through the employ of a licensed bat worker or suitably experienced ecologist shall undertake a bat survey of all of the buildings the subject of this application in accordance with a survey plan to be submitted to and approved in advance by the Planning Authority. The survey should be carried out in accordance with recognised guidelines for example those produced by The Bat Conservation Trust: Bat Surveys - Good Practice Guidelines, 2007, or guidelines from another recognised ecological organisation.

A copy of the survey report shall be submitted to the Planning Authority within a period of one month following the date of completion of the survey, for approval by the Planning Authority.

The bat survey shall make recommendations about any existence or possibility of bats roosting on site, any measures that need to be implemented to mitigate against the loss of bat roosts and a timescale for the implementation of any mitigation measures. Within the approved timescales the measures to mitigate against the loss of bat roosts shall be fully implemented in accordance with the details so approved. Once implemented, those measures to mitigate against the loss of bat roosts shall be permanently retained unless with the prior approval of the Planning Authority. Mitigation may include installation of bat boxes, recommendations on landscaping and other measures.

Reason:

In the interests of nature conservation.

- 10 No residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the occupation of the final residential unit approved for erection on the site.

Reason:

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

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

*[*Page 96 of the public document pack]*

REPORT TO: Planning Committee

MEETING DATE: Tuesday 19 April 2016

BY: Depute Chief Executive (Partnership and Services for Communities)

SUBJECT: Application for Planning Permission for Consideration

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Note - this application was called off the Scheme of Delegation List by Councillor Berry for the following reason: This constitutes a highly visible town centre site that is the last unallocated green space in the area and details of parking here would benefit from public debate.

This application was also called off the Scheme of Delegation List by Councillor Day for the following reason: Given the significant level of public comment relating to this proposal, I feel that this application should be brought before the Planning Committee.

Application No. **15/00127/PP**

Proposal Planning permission in principle for residential development, covered parking, formation of new vehicular access and extension to car park

Location **Land At The Glebe
St Margaret's Road/St Andrew Street
North Berwick
East Lothian**

Applicant Mr J Scott

Per Ristol Consulting Ltd

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

This application relates to two parts of the paddock ground known locally as the Glebe Field, located in North Berwick, west of Law Road and between St Margaret's Road and St Andrew Street.

The Glebe Field is an irregularly shaped area of ground, part of which wraps around the west and south sides of the garden of the Glebe House, a former church manse built in 1823. The Glebe Field is otherwise bounded to the east by Law Road, to the south and southwest by the public road and footpaths of St Margaret's Road with residential properties of St Margaret's Road beyond, otherwise to the west by the residential properties of 1 and 2 Marmion Road and to the north by the residential properties of 7-15

St Andrew Street and to the northeast by the public car park of St Andrew Street.

The Glebe House is Category B listed and the high stone wall which extends along the length of the east side of the Glebe Field and the curtilage of Glebe House is also listed Category B in association with the listed house. The site is within North Berwick Conservation Area. The land of the site is designated as a protected area of open space under Policy C3 of the adopted East Lothian Local Plan 2008. It is private land and is not open to the public.

All of the land around the Glebe Field, including the house and garden of Glebe House, is defined by Policy ENV1 of the adopted East Lothian Local Plan 2008 as being predominantly residential. The defined town centre of North Berwick is a short distance away to the north of the site.

The land of the Glebe Field, which is greenfield, undeveloped, coarse-grassed land with some established groups of trees growing on it, slopes steeply downhill from its south side to its north side. By its openness and topography it allows vistas over the town centre of North Berwick and beyond to the Firth of Forth.

The buildings on the south side of St Margaret's Road are at a higher level than the Glebe Field and the streets of St Margaret's Road and Law Road also slope steeply downhill towards St Andrew Street. The street level of Law Road is at a much lower level than the land along the east side of The Glebe Field.

The neighbouring properties on Marmion Road, St Margaret's Road and St Andrew Street are mainly Victorian, semi-detached and detached houses, varying in size and design with finished materials of stone, and to a lesser degree render, with timber framed windows and doors. They have pitched roofs, predominantly finished in slate.

Glebe House is an imposing, two storey detached, stone built, former church manse now occupied as a private house. The Glebe Field is enclosed by post and wire fences except along its east boundary where it is enclosed by the Category B listed stone wall associated with Glebe House and also along the boundaries of it with the adjoining residential properties of 7-15 St Andrew Street and 1 St Margaret's Road and 1 and 2 Marmion Road, where it is separated from these properties by stone walls.

Planning permission in principle is sought through this application for:

- (i) a residential development with covered parking, formation of a new vehicular access and associated works, all on the south-eastern part of The Glebe Field (an area of some 0.269 hectares); and
- (ii) the formation of a car park, as an extension to the existing St Andrew Street car park, on the north-western part of The Glebe Field (an area of some 0.113 hectares).

The application site does not cover all of the land of the Glebe Field but instead consists of the two parts of the field described above. A smaller area of land on the western and southwestern parts of the Glebe Field is outwith the application site boundary.

In accordance with the requirements of Policy ENV4 of the adopted East Lothian Local Plan 2008 the applicant has submitted drawings indicatively showing the proposed development in relation to its surroundings in the Conservation Area. These indicate how a single flatted building containing 9 flats, which could be of a traditional form and finishes and ranging in height from 2 to 3 storeys, might be accommodated on the south-eastern portion of the Glebe Field. Access is proposed via a new vehicular access which would be formed into the site from St Margaret's Road at the south of the site. A detached covered parking area for residents is proposed south of the flatted building,

with an access drive, turning area, visitor parking and bin storage. It is indicated that the boundaries of this part of the site which are not already enclosed would be enclosed by new post and wire fences.

The drawings also indicate how a 36 space car park could be laid out at the northern end of the north-western part of the Glebe Field where it abuts the southwest corner of the existing St Andrew Street public car park. The proposed car park would form an extension to the existing St Andrew Street car park, accessed solely by a new ramp formed between the northeast corner of the proposed car park and the southwest corner of the existing car park. New landscaped areas are indicated around some edges of the proposed new car park and a new post and wire fence would enclose its southern edge.

The application is also accompanied by a Planning Statement. In this it is stated that the applicant proposes to grant East Lothian Council a long term (99 year) lease over the land on which the car park extension is proposed. It is further stated that this could be delivered by imposition of a pre-commencement planning condition on a grant of planning permission in principle for the proposed development and the prior conclusion of a legal agreement binding the applicant as landowner to enter into a lease with East Lothian Council for the use of the land as a car park, prior to the commencement of the residential development proposed.

Subsequent to the registration of the application the applicant has also submitted a Counsel Opinion and examples of cases on the legality of mechanisms proposed for delivering the land for a car park and also a Conservation Area Statement produced for the applicant by Simpson and Brown Architects.

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.

Relevant to the determination of the application are Policies 1B (The Spatial Strategy: Development Principles) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV1 (Residential Character and Amenity), ENV3 (Listed Buildings), ENV4 (Development within Conservation Areas), ENV7 (Scheduled Monuments and Archaeological Sites), C3 (Protection of Open Space), DP13 (Biodiversity and Development Sites), DP14 (Trees on or adjacent to Development Sites), DP20 (Pedestrians and Cyclists), DP22 (Private Parking), NH5 (Protected Trees), T1 (Development Location and Accessibility), T2 (General Transport Impact), T5 (Public Parking), H4 (Affordable Housing) and INF3 (Infrastructure and Facilities Provision) of the adopted East Lothian Local Plan 2008.

Material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's Scottish Planning Policy: June 2014 on development affecting a listed building or its setting, on development within a conservation area, on development affecting archaeological sites and on development affecting green infrastructure.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which

it possesses.

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

Scottish Planning Policy states that planning authorities should protect archaeological sites and monuments as an important finite and non-renewable resource and preserve them in situ wherever possible. Where in situ preservation is not possible, planning authorities should, through the use of conditions or a legal obligation, ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development.

Scottish Planning Policy states that planning should protect, enhance and promote green infrastructure, including open space and green networks, as an integral component of successful placemaking. It advises that the planning system should consider green infrastructure as an integral element of places from the outset of the planning process and facilitate the provision and long-term, integrated management of green infrastructure and prevent fragmentation. Scottish Planning Policy defines green infrastructure as including the 'green' and 'blue' features of the natural and built environments that can provide benefits without being connected and states that green features can include parks, woodlands, trees, hedges, verges etc.

Scottish Planning Policy includes that the Planning Authority should at all times provide an effective five year housing land supply.

Also material to the determination of this application is the North Berwick Conservation Area Character Statement of the adopted East Lothian Local Plan 2008, which makes specific reference to the Glebe Field. Paragraph 1.5 includes that "A further small but significant area of open space is at the Glebe Field which contributes to the amenity of the area by its openness and views across the roofscape of the conservation area to the sea. There is a historical relationship between the manse and the field and the presence of such a field in a built-up area is rare."

Also material to the determination of the application is the planning history of the site, the Council's Transportation Strategy and the representations received from the public.

The Glebe Field has a substantial planning history.

Through application 02/00549/FUL, planning permission was sought in June 2002 for the erection of six two storey detached houses on the entire grassed paddock ground of The Glebe Field. In respect of this the applicant was advised that the scheme of development as submitted would be an over development of the site and of an architectural form and character which would neither preserve nor enhance the character or appearance of the conservation area or the setting of the Category B listed building, contrary to national, strategic and local plan policies on control of development in conservation areas and within the setting of a listed building. The applicant was therefore advised that the recommendation on the application would be for refusal.

Planning application 02/00549/FUL was subsequently withdrawn by the applicant prior to a determination of it.

In 2003 planning permission was sought for the erection of four houses on the northern part of the Glebe Field (ref: 03/00141/FUL) and for the erection of three houses, garages and the formation of vehicular and pedestrian accesses and associated works (03/00142/FUL) on the south-eastern part of the field. Listed building consent for proposed part demolition of the east boundary wall of the site with Law Road and erection of gate piers, wall and a gate was separately sought (ref: 03/00142/LBC). The southwest part of the Glebe Field which had been proposed for development in application 02/00549/FUL did not form part of these proposals.

Planning application 03/00141/FUL for the erection of four houses on the northern part of The Glebe Field was refused planning permission on 16th December 2003 for the following reasons

1. The erection of the proposed houses on the application site would result in the loss of the open aspect and historic character of this part of "The Glebe Field" to the detriment of the character and appearance of this part of North Berwick Conservation Area contrary to national, strategic and local plan policies;
2. The erection of the proposed houses to the west of the existing Glebe House would remove part of the historic association of "The Glebe Field" with Glebe House. Moreover, in their position and by their scale the proposed houses would not subservient to but would impose themselves on the listed Glebe House. Consequently, the proposed four houses would not preserve or enhance; rather they would have a significant detrimental impact on the setting of the listed Glebe House contrary to national, strategic and local plan policies;
3. The erection of the four houses proposed on the application site would result in the loss of an area of open space important to the urban amenity of this part of North Berwick contrary to national and local plan policies;
4. The proposed houses would by their physical presence impose themselves on the residential properties to the north of the application site and would cause harm to the level of privacy and amenity that presently pertains to those neighbouring properties by virtue of loss of daylight and overlooking contrary to local plan policies;
5. The proposed scheme of development would require the removal of a mature tree which is an important feature which has considerable amenity value to this part of the North Berwick Conservation Area contrary to local plan policy;
6. The proposed scheme of development and site layout does not comply with the Council's Development of Roads Standards for vehicle turning.

Planning application 03/00142/FUL for the erection of three houses, garages and the formation of vehicular and pedestrian accesses and associated works on the south eastern portion of the Glebe Field was refused planning permission on 16th December 2003 for the following reasons:

1. The erection of the proposed houses on the application site would result in the loss of the open aspect and historic character of this part of "The Glebe Field" to the detriment of the character and appearance of this part of North Berwick Conservation Area contrary to national, strategic and local plan policies;

2. The erection of the proposed houses to the south of the existing Glebe House would remove part of the historic open setting of that Category B listed building and would remove part of the historic association of "The Glebe Field" with Glebe House. Moreover, in their position and by their scale the proposed houses would not be subservient to but would impose themselves on the listed Glebe House and would conceal views of Glebe House from St Margaret's Road. Consequently, the proposed three houses would not preserve or enhance; rather they would have a significant detrimental impact on the setting of the listed Glebe House, contrary to national, strategic and local plan policies;

3. The erection of the three houses proposed on the application site would result in the loss of an area of open space important to the urban amenity of this part of North Berwick contrary to national and local plan policies;

4. By their scale, form and materials the new gate piers and sections of wall to be formed at the proposed pedestrian access off Law Road would be a prominent and discordant feature in the wall that would compromise the historic form and integrity of the wall and the positive contribution the wall makes to the character and appearance of the conservation area. Those proposed new gate piers and sections of wall would neither preserve nor enhance the character of the wall or the architectural and historic character of the Conservation Area. Rather they would detract from the character of the wall and the architectural and historic character of the Conservation Area contrary to national, strategic and local plan policies;

5. By their scale, form and materials and in their position at the proposed site access off St Margaret's Road the proposed new gate piers and sections of wall would appear as a prominent and discordant feature that would neither preserve nor enhance the character and appearance of the Conservation Area. Rather they would detract from the character and appearance of the Conservation Area contrary to national, strategic and local plan policies.

Listed building consent application 03/00142/LBC for the proposed part demolition of the east boundary wall of the site with Law Road and for the erection at the new opening of gate piers, new sections of wall and a gate was refused on 16th December 2003 for the reason that by their scale, form and materials the new gate piers and sections of wall to be formed at the proposed pedestrian access off Law Road would be a prominent and discordant feature in the wall that would compromise the historic form and integrity of the wall. Those proposed new gate piers and sections of wall would neither preserve nor enhance the character of the wall. Rather they would harm the character and appearance of the wall contrary to national, strategic and local plan policies regarding development affecting a listed building.

The applicant appealed to the Scottish Ministers against the Council's decisions to refuse planning permission for the erection of three houses, formation of vehicular and pedestrian access and associated boundary treatment on the south-eastern part of the Glebe Field (ref: 03/00142/FUL) and the associated application for listed building consent (ref: 03/00142/LBC).

Following a public inquiry, the Scottish Ministers' Deputy Chief Reporter's decision was to dismiss both appeals. Planning permission for the erection of three houses, formation of vehicular and pedestrian access and associated boundary treatment was refused for the reasons that housing development of the site would be contrary to then Structure Plan Policy which presumed against new housing development on greenfield sites other than to meet housing requirements set out in other structure plan policies, the detailed development proposed would result in the loss of amenity for local residents and the loss

of trees and loss of openness (as a result of the proposed development) would detract from the appearance of the Conservation Area contrary to relevant Policies of the then local plan. Listed building consent for the part demolition of a wall, the erection of gate piers, new sections of wall and a gate was refused for the reason that it would fail to preserve the character of the listed building and would be contrary to the listed building policy of the then Local Plan.

The applicant did not appeal the Council's decision to refuse to grant planning permission (application 03/00141/FUL), for the erection of four houses on the northern part of The Glebe Field.

Subsequent to those planning and appeal decisions being taken the then relevant Structure and Local Plans have since been replaced. The current development plan policies relating to listed buildings, conservation areas and infill development are similar in their terms to the policies which were relevant at the time of the previous planning and appeal decisions relating to the site, however, a significant material policy change has been the defining of the land of the Glebe Field in the adopted East Lothian Local Plan 2008 as open space land covered by Policy C3 (Protection of Open Space). The North Berwick Conservation Area Character Statement has amendments from that of the 2000 Local Plan, including the assessment of the contribution of the Glebe Field to the character and appearance of the Conservation Area.

A Public Local Inquiry into unresolved objections to what is now the adopted East Lothian Local Plan 2008 (at the time The Finalised East Lothian Local Plan 2005) was held in 2006. One objection considered was from the current and previous applicant. His objection was to the intention in the then finalised local plan to extend the area covered by Policy C3 (Protection of Open Space) to include the Glebe Field, and particularly the south eastern corner of the field.

The objector suggested that instead the site should continue to be covered by Policy ENV1 (Residential Character and Amenity) as it was in the previous local plan and that the eastern part of the site should be specifically identified as a local housing proposal.

The Inquiry Reporter, having considered the objection raised, concluded that the Glebe Field constitutes an important and distinctive feature in the local area which makes a valuable contribution to the overall amenity of the area. He noted that the objector sought to draw a distinction between the differing values of the western and the eastern parts of the site to the appearance and amenity of the area, but concluded that it is the contribution which the entire Glebe Field makes to the quality of the surrounding residential area and to the conservation area that is important.

The Reporter concluded that Policy C3 is the appropriate policy to apply to the site and that there is a wider public interest in protecting amenity and preserving the appearance and character of the conservation area, than there is for the objector to exercise his right to develop his land and realise its value. The Reporter therefore recommended that the Council's approach to applying Policy C3 to the Glebe Field should be accepted and as such Policy C3 applies to the Glebe Field in the adopted East Lothian Local Plan 2008.

The south-eastern part of the application site, where residential development is again now proposed, was the subject of a submission following a call for sites by the Council as part of the research towards the new Local Development Plan. The site was not proposed as a preferred site or an alternative site for housing in the Council's Main Issues Report (the consultation document which considers such submissions and other sites prior to the formation of a proposed Plan). Nor, following the consultation process, is the site proposed to be allocated for housing in the Draft Proposed Local Development

Plan approved with amendments at a meeting of the Council on 17 November 2015. Whilst the Draft Proposed Local Development Plan is not a statutory stage of the development plan process and can be accorded only limited weight at this stage, the decision of the Council on 17 November 2015 to approve the draft plan with amendments reflects the settled view of the Council on the strategies and sites for housing and other land allocations.

There are a total of 149 written representations to this application, 105 of which are objecting to the proposals and 44 of which are supportive.

The majority of the 105 objections are from individuals. The amenity groups North Berwick Environment Trust and Conservation N.B. have also submitted objections.

North Berwick Environment Trust states that it finds the implied connection between the creation of a car-park extension and the building of a residential development 'puzzling'. It states that no adequate explanation of, or justification for, the 'enabling' aspect of this application has been given, but since the proposed car-park extension appears to be offered in respect of East Lothian Council's aspirations with regard to local traffic management, there is potentially a conflict of interest that might even prevent East Lothian Council from considering the application. It objects to the proposals on the grounds that the site is outwith the East Lothian Strategic Development Area as identified within SESplan and would not align with strategic policy objectives. It considers the parking proposal a 'sticking-plaster' approach which would not solve a more complex car parking problem, that the proposed residential development would dominate the site and the listed Glebe House, and would lead to the loss of a green space. Both the residential development and the proposed car park would lead to further traffic congestion in the area and would set a precedent for the future development of the remainder of the Glebe Field.

Conservation N.B have raised similar objections and they have also conducted an independent survey on parking within North Berwick the findings of which they have appended to their letter of objection.

The other main grounds of objection are summarised below:

Impact on Conservation Area/Listed Building/Open Space

*The proposal is contrary to Policies C3, ENV3 and ENV4 and the North Berwick Conservation Area Character Statement of the adopted East Lothian Local Plan 2008;

*It would set a precedent for the development of the remainder of the Glebe Field;

*Would have a very significant adverse effect upon the setting of the conservation area, the conservation area and the setting of the listed Glebe House, all especially detrimental when viewed from the south, from higher ground.

*Glebe Field is a protected green space area of historic relevance in a conservation area thus the presumption must be against development;

*The Glebe Field is a precious part of North Berwick and to build on it at all feels deeply wrong. A natural green space in a town is so rare and should be protected;

*This is an important green space for the people of North Berwick. It should not be built on and it is not scheduled for development in the Local Plan;

*Object to development of any nature, car park or housing, on Glebe Field due to the rare nature of an uncultivated green field in the centre of a town and role it plays in the green infrastructure, nature conservation, biodiversity and amenity of North Berwick;

*The proposal fails to preserve or enhance the character or appearance of the area and so should be refused;

*Historic Scotland has previously indicated concern over development of the Glebe Field;

*East Lothian Council earlier this year carried out a review of its landscapes, with a view to designating Special Landscape Areas – this land has been nominated as a designated Special Landscape;

*Mature trees would potentially be felled;

*The proposal would result in a compromising at both ends of a precious green space;

*The Glebe Field is, in essence, in trust for the present and future residents of and visitors to North Berwick. Without the green open space in the centre of the town just above the High Street the town itself would be diminished and lose part of its character and charm. It should not be wantonly thrown away for short term gain and a few car parking spaces;

Proposed car park and car parking in North Berwick

*North Berwick does not need more car parking within its town centre;

*Creating more parking spaces in the town centre will encourage more traffic in an already congested area;

*Opportunities for future use of the Community Centre and the Rugby Club for parking should be encouraged and investigated;

*The surrounding infrastructure will not support further traffic;

*The proposal would increase the volume of traffic and noise pollution and could be harmful to pedestrian safety;

*There is underutilised parking provision elsewhere in the town

*Although the proposed car park might provide a useful modest boost to the town's car parking capacity, it won't be enough to resolve the chronic issue of traffic in the town centre, and will of course add to congestion in the immediate area;

*More should be done to promote travel by bike and train instead of promoting the car;

*Improved parking could be achieved in the town centre without using the Glebe land;

*The proposed car park is on a steep gradient and this would lead to drainage problems and could be dangerous in icy or snowy conditions;

*Concerns that plans do not clearly represent the steep gradient of the land the proposed car park would be built on;

*The layout and other details shown on the indicative drawings are unpractical for parking;

*The proposed use of the car park and the access between it and the existing car park would result in a harmful impact to the privacy, amenity and security of residential properties to the north of it and to the west and south west of it through overlooking from car park users, security issues due to the low boundary wall between the proposed car park and residential properties to the north; noise and light disturbance from car engines and headlight beams;

*There is a clear lack of any sort of research, assessment, care or attention to environmental implications such as surface water drainage and potential flooding which could result from the engineering required to address the severe gradient and build a car park extension;

*If trees were planted along the north side of the proposed car park as indicated this could result in a harmful loss of light to neighbouring residential properties and would have a negative impact on the views across the roof-scape of the conservation area as mentioned in the conservation statement;

*The excavation required to alter the gradient of the proposed car park land would leave a massive ledge in the middle of the field, destroying 'The Glebe Field' overall;

*St Andrew Street and Law Road are already congested and dangerous with narrow pavements and to consider adding more vehicles to this area is dangerous;

*The proposed car park would have a detrimental impact on existing mature trees which are important features and which have considerable amenity value to this part of the Conservation Area;

*The case has not been made for more car parking on green field sites in North Berwick and in particular, the case has not been made or support found for a car park extension

at the Glebe Field;

*Building of a car park would be contrary to other Council Policy and in particular The Council's Single Outcome Agreement published in 2013 which seeks to encourage people to leave their car at home and which seeks to maintain a high-quality natural environment;

*The proposed car park is unlikely to make a material difference to the town's parking issue. It runs counter to the professional advice that the Council has received;

*The Council should be encouraging more sustainable modes of transport such as walking, cycling and taking the train or bus instead or consider out of town parking/a park and ride facility as an alternative to more parking provision within the town centre;

*It would be better to build underground and one storey car park on the existing car park and protect this space;

Proposed residential development

*The proposed new vehicular access on St Margaret's Road would be harmful to road and pedestrian safety;

*The proposed new access, and the sight lines required for it, would result in the loss of trees and other foliage resulting in a negative impact on the diversity of wildlife and flora and fauna in the field;

*The proposed residential development and its associated parking areas and access would result in a loss of privacy and amenity to neighbouring residential properties;

*Proposed flatted development not in keeping with the design or size of any surrounding properties;

*The indicative details submitted are vague, inconsistent and confusing;

*A bid for development on part of the Glebe Field was submitted as part of the LDP process but did not find support. Additional housing here was not identified in the recently published Main Issues Report;

*Existing infrastructure including schools cannot support further housing development;

*Given the massive amount of new housing on the outskirts of town, 9 new apartments in the centre of town are not required;

*There is no case for building housing on the Glebe Field;

*The site is not allocated for residential development in the local plan;

*The Interim Guidance on developments does not apply to this site because it only applies to housing applications that form an appropriate extension to an existing settlement;

*There is enough housing developments currently taking place in North Berwick, the local infrastructure is under severe strain and the Glebe Field is not an East Lothian Council preferred area for development;

Proposal/procedural matters

*Completely out of character with the area;

*There is no evidence of any social, economic or community benefits that would outweigh the planning policies protecting this precious and rare conservation area greenspace amenity nor that would overcome the presumption against development that must be defended;

*This application should be dismissed on grounds of lack of compliance with the Development Plan, it is premature, and would set an undesirable precedent;

*This application is completely at odds with the planning history, the previous appeal decision, the Council's existing Local Plan and the North Berwick Conservation Area Character Statement

*There is a lack of detail and a wholesale absence of a proper assessment within the application;

*Overall impact on road and pedestrian safety on surrounding streets;

*The development of the Glebe Field and the additional traffic this would create would lead visitors to the town to seriously consider whether they would continue to visit the

town;

*This is the wrong place in the town for additional parking or residential development;

*The application is deficient as it lacks a proper SUDS scheme and Drainage Impact Assessments, Transport Assessments or a travel plan;

*The timing of this application and the inclusion of the car park seems a blatant attempt to circumvent the LDP process and the application should therefore be rejected as being premature pending the finalisation of the LDP process;

*Should the Council and/or landowner wish to pursue this development, then it should be done through seeking designation with the Local Development Plan rather than through an 'in principle' planning application. That would enable the matter to be discussed and considered with an independent assessment made by a Reporter and so ensuring a fully open and transparent process. Without conclusion of such process this proposal is premature and should be dismissed;

*Planning permission in principle should be denied until clear changes of Council policy have been explained, clarified and justified;

*The applicant has indicated that they intend to lease the proposed car park to the Council and the car park would be accessed from the existing Council car park. This would suggest that there has been some prior discussion with Council officers regarding a proposed lease. To that extent the Council has a clear interest in the development requiring its Notification to the Scottish Government in the event of a proposed granting of permission;

*A survey carried out by the Council titled North Berwick Parking Consultation which ran from March – May 2014 should be discounted as it did not ask the required open questions to enable an informed unbiased survey response;

*Concerns that North Berwick Community Council have not represented the views of the town by supporting the proposals;

*The applicant's agent suggests that the housing element of the proposal is an enabling development for the car park provision. Enabling development, in the context of planning policy and practice refers to those few instances where otherwise unacceptable development is permitted to secure the conservation of historic or listed buildings and that is clearly not the case here;

*Provision of car parking does not make an otherwise unacceptable housing development somehow acceptable. There is no direct relationship between these two very disparate elements. Each should fall to be measured against the Local Plan and other material considerations. Offering the Council land for car parking cannot be a material consideration in the assessment of the housing element and would be inappropriate;

*The car park and residential development proposals have no link between them whatsoever and could be pursued independently of each other so the residential development should not be considered to be enabling development;

*There is a conflict of interest with East Lothian Council having authority over the planning application, since it has expressed in the result of its car parking consultation its intention to put a car park on The Glebe Field;

*The Conservation Area Statement provided by the applicant should not be considered as it is biased towards the applicants;

*Procedurally, concerns have been raised that the application was allowed to be validated and that those who made representations have not been formally notified of documents submitted by the applicant subsequent to the registration of the application;

*To ask the Council to approve proposals to which they are inextricably linked is unethical;

*It is unclear how parking at the Glebe became one of the Council's preferred options given the approach set out in the recent MVA Study and the proposals detailed therein;

*Should the Council grant consent to this application it will contradict its previous decision and the findings of the 2004 Planning Inquiry. There are no credible planning policy reasons to do so;

*It is inappropriate for a planning permission in principle application rather than a detailed application to be submitted for such a sensitive location;

The majority of the 44 representations of support for the application support the principle of both the car parking proposal and the residential development proposal. The main reasons for support of the proposals are summarised below.

*The proposed car park would be a suitable and quick solution to help overcome the current chronic car parking shortage in the town and would help town centre businesses survive;

* this is the Council's preferred location for new parking;

*the proposed flats could provide more town centre apartments which opens up a wider choice for the increasingly elderly population;

*there is currently excess demand for accommodation in the town and this application would help to meet this;

* smaller housing units and parking spaces are desperately needed;

*the proposed flats would provide high density additional accommodation close to the centre which is helpful in terms of limiting car journeys and thereby congestion and pollution;

*this proposal will reduce, substantially, the cost to the Council of providing new parking and thus reduce the cost to local taxpayers;

*it has the Community Council's support;

*the owner has the same right as any other resident to develop on his land within the current planning guidelines as it would appear he is following;

*the field is overgrown and unsightly and the addition of houses might actually smarten up the area;

*the proposed flats would be set well back from the road and would be screened by mature trees;

*the proposal accords with East Lothian Council's planning policies as contained in the Interim Planning Guidance;

*the proposal is a sensible compromise/solution for those in favour of/opposition to it;

* the proposals seem to be sensitive, and cause minimal impact while delivering much needed community benefit;

*some amenity ground will remain;

With reference to the representations of support and for the avoidance of doubt it should be clarified that the application site is close to, but not within the defined town centre of North Berwick.

In respect of wider transportation matters, the adopted East Lothian Local Plan 2008 is one aspect of the Council's approach to transportation, which includes other policy documents such as the Local Transport Strategy (LTS) and Local Air Quality Strategy. The Council's first LTS was published in 2001 and sets out its transport and travel vision to the year 2020. The prime objective of the strategy is to reduce the overall dependence on the private car and to promote the availability and use of alternative, more sustainable modes of transport where practical to do so. The adopted East Lothian Local Plan 2008 does not contain any transportation policies relating to the Glebe Field or any proposals to allocate any land at the Glebe Field for car parking. Nor does the approved Draft Proposed Local Development Plan, as amended.

The applicant's Planning Statement advises "the proposal finds its origins in East Lothian Council's car parking study of 2012". (This is an appraisal carried out by MVA Consultancy, commissioned by East Lothian Council in 2011 to undertake an appraisal of a number of potential sites for the provision of new car parking capacity in North Berwick). Amongst 10 potential sites for car park provision within North Berwick

identified by the Consultants was the option of extending the existing St Andrew Street car park into the area now being proposed as a car park through this current planning permission in principle application, to form 26 new car parking spaces. The current application suggests 36 spaces could be accommodated as the site identified in this application is larger than that identified in the MVA parking study. The applicant's Planning Statement refers to "dialogue and meetings between the applicant team and East Lothian Council transport officials during 2013 and 2014 [which] established that the Council considered extending the Glebe car park to have significant merits as part of a wider and integrated car parking strategy for the town".

The applicant considers that the option of extending the St Andrew Street car park into the Glebe Field would impact on the amenity and value of Glebe House and that the process of considering car parking itself creates uncertainty, contributing to diminution in value of the house and surrounding properties. The applicant advises that he has sought to work with East Lothian Council in developing a strategy that facilitates increased car parking provision whilst minimising the impact on amenity and value of Glebe House and neighbouring properties. The Planning Statement refers to the Council's Interim Planning Guidance relating to housing land supply issues. The applicant considers this Guidance to be of relevance to the proposed residential development element of the application and notes criteria 5 (ii) of the Interim Guidance which provides for the residential development on sites outwith East Lothian's Strategic Development Area if the site is (a) well served by public transport, (b) existing facilities and services are both available and accessible and (c) the extent to which the additional housing would help make a demonstrable and necessary contribution to sustaining or improving educational, social or community facility provision within the area may also be a material consideration.

The applicant's agent advises it is within this context, i.e. the identification of the land at the northern end of the Glebe Field as a potential site for additional car parking combined with the Interim Planning Guidance in support of planning applications that are deliverable and enable community gain (in this case the provision of land for a car park) that set the context for this planning application. The applicant's case is that the car parking study of 2012 and the follow on survey continue to create significant uncertainty over future land uses at the Glebe which impacts on the amenity and value of the applicant and owner of the Glebe Field and Glebe House as well as properties neighbouring the Glebe. He is therefore of the view that allowing the residential development proposed would enable the advancement of the extended car park creating land use certainty on the issue of car parking provision within North Berwick.

The applicant therefore considers the residential development to be an enabling development to allow the provision of the proposed car parking which he intends would be leased to the Council on a long term (99 year) lease over the land. The applicant suggests all of this could be secured through appropriate pre-commencement conditions on a grant of planning permission in principle and a planning obligation binding the applicant as landowner to enter into a lease with the Council on the proposed car park site and use of it as a car park prior to the commencement of the residential development proposed.

With respect of the applicant's views on this matter, what is under consideration in determining this application for planning permission in principle is an application made by a private individual for development on land which he owns. The applicant's indication that he would be willing to lease the proposed car park to the Council is not a material consideration in the determination of this planning application. What is material is the assessment of the appropriateness or otherwise of the parking and residential uses as set out in the application. Were planning permission in principle to be granted for the development as proposed, any arrangements in respect to rights to use of the land

would require to be outwith the planning decision and be secured by mechanisms other than those competently allowed by planning legislation in relation either to planning conditions or planning obligations through legal agreements.

The Council's Road Services confirm that there have been a number of parking, traffic and environmental studies undertaken in North Berwick since 2000 all of which to some degree have highlighted the need to increase parking provision by various methods such as maximising the efficiency and the operation of parking, improving control and turn-over, increasing supply and demand management techniques. The Council commissioned MVA Consultancy in 2011 to undertake an appraisal of a number of potential sites for the provision of new car parking capacity in North Berwick. In addition they were asked to assess the current status of parking and identify problems and conflict. A report presented to Cabinet on 9th April 2013 recommended new parking provision at a number of locations including Recreation Park Rugby Club – long stay car park (107 spaces – now completed); extending Glebe car park – short stay (26 spaces); Law Road/St Margaret's Road – medium stay car park (99 spaces); Tantallon Terrace – seasonal car park available (114 spaces) subject to a further consultation period. A questionnaire was then placed on the Council's Consultation Hub between 24th March – 5th May 2014, seeking a consensus of opinion on various parking and traffic related issues.

One of the findings of the questionnaire was that there was support for the provision of additional parking provision at the Upper Glebe. The questionnaire included a site plan showing a similar area for this as now proposed.

Following on from this consultation exercise the Council's Depute Chief Executive, Partnerships and Community Services recommended in his report to Cabinet of 10 March 2015 on the 'North Berwick Parking Strategy Update' that Cabinet approve a 3 year strategy to amend or make the necessary Traffic Orders to purchase the requisite land, to obtain the necessary consents and to construct new car park provision as detailed in Appendix 1 of his Report. This includes constructing a new car park of 1400 sq. metres with the potential for 58 spaces at Upper Glebe subject to acquiring the land and gaining all necessary consents including making an application to the Council as Planning Authority for planning permission. These recommendations were approved by Cabinet on 10th March 2015.

The Council's Road Services, as consultee, has set out the background to North Berwick's parking issues and studies, and decisions of the Council on pursuing various different solutions to these issues. Solutions include, amongst many other options, exploring the potential to extend the existing St Andrew Street car park into the Glebe Field.

Road Services confirm that off street parking provision in North Berwick is generally at capacity and advises that additional spaces are required to address ever increasing demand.

Policy T5 of the adopted East Lothian Local Plan 2008 supports the provision of publicly available, short stay car parking where it will contribute to the vitality and viability of town centres. Road Services welcomes the potential opportunity to extend the existing St Andrew Street car park into the northern part of The Glebe Field and advises the addition of 36 car parking spaces close to the town centre is significant, particularly if this is developed as a wider strategy for parking in the area.

Road Services further advise that there would be some engineering difficulties in the provision of a car park on this site. Site constraints, particularly the steep gradient of the land, would not enable full, barrier free accessibility for all users, however, Road

Services consider the development of the additional car parking spaces on this site could allow the potential improvement of provision of disabled parking in more accessible areas on nearby town centre on street/off street locations, by re-designation of some existing parking within the town centre. Road Services therefore support the parking proposal of the application subject to a Parking Management Strategy being agreed. This would require the proposed car park to be taken over by the Council as part of the existing car park at St Andrew Street and to enable the legal re-designation of some existing on street/off street parking elsewhere in North Berwick as disabled only bays, with the costs associated with this being borne by the applicant.

Any legal arrangements in respect of the use of the proposed parking area by the Council as Roads Authority, or other associated parking changes elsewhere would require to be made separately. The proposed car park is not required as a result of the residential development otherwise proposed in this application. Therefore it would not be competent to try and secure control of it by conditions or legal agreements relating to the planning permission in principle.

However, notwithstanding the consideration of the Council's accepted position that there is a lack of off street parking provision in North Berwick and Cabinet's decision to pursue additional parking improvements including, potentially, the provision of additional parking as an extension to St Andrew Street car park, the primary material consideration in the determination of this application is whether or not the principle of the proposed developments accord with development plan policy and other supplementary planning guidance and if not, whether the above or any other material considerations outweigh any conflict with the development plan and other supplementary planning guidance.

None of the land within the application site boundary is garden ground as suggested in the applicant's Planning Statement but is instead, undeveloped greenfield land. The adopted Local Plan does not allocate any of the Glebe Field for residential development or car park development or any other form of development. Instead, all of the land of the Glebe Field is defined by Policy C3 of the adopted East Lothian Local Plan 2008 as being open space. It is not, therefore, an infill site.

The principle of new build residential development on the application site and the principle of the development of a car park on the application site must therefore be assessed against national, strategic and local planning policy relating to development on greenfield, defined and protected open space land within the settlement boundary of the town of North Berwick. The principle must also be assessed against national, strategic and local planning policy as it relates to the architectural and historic character and visual amenity of this part of the North Berwick Conservation Area including any trees which make a significant positive contribution to the Conservation Area, the setting of the listed Glebe House, whether or not such proposed development could be acceptably accessed and any impact such proposed development would have on the privacy and amenity of the surrounding residential area .

If planning permission in principle were to be granted, the details of the siting, design and external appearance of the proposed residential development and associated works, the landscaping of the site and the means of access to it and the details of the design, external appearance and associated works of the proposed car park, the landscaping of the site and the means of access to it would require the subsequent approval of the Planning Authority. Through the subsequent determination of such details, planning control could be exercised to ensure that the built form of the development would be fully acceptable, with due regard to the need to safeguard the character and appearance of this area of protected open space, that of the conservation area, the setting of the listed building and the amenity of the surrounding residents.

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

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

East Lothian Council has agreed that there is a shortfall in its effective housing land supply. In respect of this the Council approved its Housing Land Supply: Interim Planning Guidance (IPG) against which planning applications for housing on land not allocated for that purpose will be assessed.

The revised IPG was approved by the Council on 23rd February 2016, with reference to the approval of the Draft Proposed Local Development Plan, as amended, and its spatial strategy and sites. Those sites would allow for an effective five year housing land supply. The IPG makes clear that as a general principle the Council's Guidance only applies to housing applications that form an appropriate extension to an existing settlement defined in the Local Plan. Notwithstanding the provisions of SPP, SESplan and the IPG in respect of the five year housing land supply it has to be considered whether or not the proposal's potential contribution to that supply would be significant when weighed against the other material considerations.

The site the subject of this application by being located well within the settlement boundary of the town of North Berwick as defined in the Local Plan does not form an 'extension' to the town of North Berwick and as such the approved IPG does not apply to this site. It is not a material consideration in the determination of this planning application. Therefore the applicant's contention that the residential development proposed would constitute an "enabling" type of development by delivering a community facility provision relevant to the IPG, in the form of the proposed car park extension is not material to the determination of this application.

Policy C3 of the adopted East Lothian Local Plan 2008 protects areas of open space, whether public or private, which contribute positively to the built environment. The Policy C3 designation is applied to protect amenity open space which makes a significant contribution to the amenity or landscape setting of an area and to retain them as such.

Policy C3 states that alternative uses will only be considered where there is no significant loss of amenity or impact on the landscape setting and:

- (i) the loss of a part of the land would not affect its recreational, amenity or landscape potential, or
- (ii) alternative provision of equal community benefit and accessibility would be made available, or
- (iii) provision is clearly in excess of existing and predicted requirements.

As Policy C3 applies to the Glebe Field, an area recognised to be of significant amenity and landscape value rather than as recreational value, parts (ii) and (iii) of Policy C3 are not of particular relevance. However, the impact the proposals would have on the amenity or landscape setting of the Glebe Field and the impact the loss of parts of that land would have on the area's overall amenity and landscape potential is relevant. That

the Glebe Field was so designated through the Local Plan process, including Public Inquiry, and that in this process objection to that designation was dismissed, underlines its importance to the amenity and landscape quality of the area.

The two areas of land the subject of this application, as part of the designated open space land of the Glebe Field, make a significant contribution to the amenity and landscape setting of this part of North Berwick. The Glebe Field does not have a uniform appearance over the entire field - there are areas of significant tree cover, particularly at the eastern end of it where the residential development is proposed, and areas without tree cover which afford the significant public views over the land to the roofscape of the town centre to the Firth of Forth beyond.

Additionally, it is the contribution which the entire Glebe Field makes to the quality of the surrounding residential area which is important. The presence of trees on the land does not somehow change it from being 'open space' and the open, undeveloped nature of the land of the Glebe Field contributes significantly to the general amenity and character of the area. These areas on which development is proposed, as forming part of the whole designated the Glebe Field have a longstanding presence as undeveloped green space within the historic core of North Berwick and have historical links to Glebe House as Glebe land for the former manse. In all of this the open space land that is subject to the car park proposal and to the residential development proposal contributes significantly to the amenity of the area and the quality of the urban environment of the town of North Berwick and, importantly, its Conservation Area.

In relation to the proposal for the car park extension, the Council's Policy and Projects team advises that in general principle, the development of a car park on this site, given its likely form, would be acceptable in terms of Policy C3 as it could maintain the openness of that part of the field. It is the case that the formation of a car park on this land would not have the same significant impact on vistas over the Glebe Field and would not conceal the roofscape of the historic core of the town and the sea beyond to the same extent as the previous proposal back in 2003 for 4 houses, but nevertheless the forming of a hard surfaced car park along with any necessary regrading works and associated retaining structures which would be required on such a steeply sloping site and the presence on this land of up to 36 cars or other vehicles would still result in the loss of the open and undeveloped character and appearance of this part of The Glebe Field. This would be to the detriment of the overall designated area of open space which makes a significant contribution to the amenity and landscape setting of this part of North Berwick. Accordingly the car park proposal is contrary to Policy C3 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development affecting green infrastructure.

The land the subject of the proposal in principle for a residential development has changed in appearance over the past 10-15 years as trees which were present on the land at the time of the previous application for residential development on this site back in 2003 have, from being fairly small trees back in 2003, grown significantly over this time, now filling much of the site. It is within a space between the treed areas of this part of The Glebe Field that it is indicated that a single building, containing 9 flats, could be accommodated.

The increased tree cover on this part of the Glebe Field could, depending on the detailed form and positioning of a residential development on the site and subject to the retention of these trees, provide some screening of such a development, thereby lessening the visibility it may have in the area. However, any residential development on this site and particularly the formation of a new vehicular access to it would still be visible from views outwith the site. Notwithstanding the visibility or otherwise of any proposed residential

development, the principle of carrying out a residential development on this site would result in the loss of the open and undeveloped character and appearance of this part of The Glebe Field and this would be to the detriment of the overall designated area of open space which makes a significant contribution to the amenity and landscape setting of this part of North Berwick. Accordingly the residential development proposal is contrary to Policy 7 (a) of the approved South East Scotland Strategic Development Plan, Policy C3 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development affecting green infrastructure.

The Conservation Area Statement prepared on behalf of the applicant seeks to draw a distinction between different areas of the Glebe Field and concludes that in the time since the Council's Conservation Area Statement was produced the part of the Glebe Field on which the principle of a residential development is proposed has changed with tree growth on the south and west boundaries, which has resulted in it no longer making a significant contribution to the character of the Conservation Area. The view of the applicant's conservation consultants is that there will be only a minor adverse impact on the conservation area and setting of the listed building from certain views around the site but that overall the proposals would not detract from the established character of the conservation area, and with careful design later in the planning process, would enhance that character.

The North Berwick Conservation Area Character Statement of the adopted East Lothian Local Plan 2008, which makes specific reference to The Glebe Field does not just refer to the views across the roofscape of the conservation area to the sea, which it is reasonable to conclude relates mostly to the 'middle' part of the Glebe Field not subject to these development proposals, but also to the open nature of the space which contributes to the amenity of the area and to the historical relationship between the manse and the field and the fact that the presence of such a field in a built-up area is rare.

The land to which the car park proposal relates has not changed significantly in character since the Council's Conservation Area statement was produced. This area, by its longstanding presence as an undeveloped green space within the historic core of North Berwick and its historical links to Glebe House as Glebe land for the former manse, its openness within an otherwise urban environment and by its topography and its location within the Conservation Area which allows important vistas over the Conservation Area to the Firth of Forth, constitutes, as part of the overall Glebe Field, a prominent and distinctive feature which contributes positively to the character and appearance of the Conservation Area. The loss of this part of this overall prominent, distinctive and historic green space for the formation of a car park would not preserve or enhance the special character and appearance of the Conservation Area rather it would be harmful to the historic character and the appearance of this part of the Conservation Area. Accordingly the proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policy ENV4 of the adopted East Lothian Local Plan 2008 Scottish Planning Policy on development within a conservation area.

The Council's Landscape Projects Officer (Policy & Projects) advises that the formation of a car park on this site is likely to require significant earthworks to level and surface it. She advises that the site of the proposed car park encroaches within the root protection area of two mature sycamore trees situated along the west boundary of the Glebe House garden and which make a significant contribution to the character and appearance of the Conservation Area. She advises that she would not support development within their root protection areas that could lead to their loss.

Notwithstanding that this application is for planning permission in principle, to exclude the land within the root protection areas of these trees from development would be lead

to a significant reduction in the number of car parking spaces which could be accommodated on the site and therefore it is reasonable to conclude that for a car park to be formed on the site, including the excavation necessary to form it and any associated retaining structures required, this would be, in part, within the root protection areas of these trees. Such development would have a detrimental impact on these significant trees which are important features in the Conservation Area and should be retained. These trees have considerable amenity value to the Conservation Area and the proposed car park development would not contribute more to the good planning of the area than retaining the trees would. Accordingly, by resulting in the loss of trees which have considerable amenity value to the Conservation Area, the car park proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policies NH5 and DP14 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.

The forming of a car park on the northern part of the Glebe Field to the west of the existing Glebe House would remove part of the historic open setting of that Category B listed building and would remove part of the historic association of the Glebe Field with Glebe House. However, the proposed car park, although in close proximity to Glebe House, by its position to the west of a side, non-principle elevation of the listed building and subject to the detailed layout and development of the land of the proposed car park being subservient to the listed Glebe House (a matter which would have to be considered at a detailed application stage), the forming of a car park in this proposed position would not necessarily be harmful to the setting of that listed building. Consequently the principle of a car park development on this part of The Glebe Field is not contrary to Policy 1B of the approved South East Scotland Strategic Development Plan as it relates to the setting of listed buildings, Policy ENV3 of the adopted East Lothian Local Plan 2008 or with Scottish Planning Policy on development affecting the setting of a listed building.

The land to which the residential development proposal relates does have a different appearance to other land within the Glebe Field mainly by virtue of the tree cover over this eastern end of The Glebe Field. These trees were present at the time of the previous planning applications for residential development on this land and at the time of adoption of the Local Plan but have grown significantly since then now filling much of the site. However, it is not reasonable to conclude that this has resulted in it this part of The Glebe Field no longer making a significant contribution to the character of the Conservation Area. The fact it has trees on it does not lessen the contribution this part of the field makes to the Conservation Area. On the contrary, the trees have themselves become important within the Conservation Area, providing a parkland setting for Glebe House and linking visually with the trees around Glebe House and within the Lodge Grounds to the east of Law Road.

By its longstanding presence as an undeveloped green space within the historic core of North Berwick and its historical links to Glebe House as Glebe land for the former manse, its openness within an otherwise urban environment and by its topography and its location within the Conservation Area which allows important vistas over the Conservation Area to the Firth of Forth, the Glebe Field as a whole constitutes a prominent and distinctive feature which contributes positively to the character and appearance of the Conservation Area. The loss of part of this prominent, distinctive and historic green space for the development of a residential development along with all of the associated parking, access and turning space which would be required in associated with such residential development would not preserve or enhance the special character and appearance of the Conservation Area rather it would be harmful to the historic character and the appearance of this part of the Conservation Area. Accordingly the proposal is contrary to Policy 1B of the approved South East Scotland Strategic

Development Plan, Policy ENV4 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.

In relation to the proposed residential development the Council's Landscape Projects Officer (Policy & Projects) confirms that there is space with no tree coverage in the northeast corner of the part of the site where the indicative details show the proposed building as being located. However, her assessment is that there appears no way to provide access to this part of the site without encroaching within the Root Protection Area (RPA) as defined by British Standard BS5837:2012 'Trees in relation of design, demolition and construction' of the trees, both along the southern and western areas of this part of the application site and also just to the north of the application site boundary, between the site and Glebe House. She adds that the covered car parking and access road as indicated on the application drawings, and the sight lines required to make that access safe, all appear to significantly encroach within the RPA of the trees within the south of the site.

The Landscape Projects Officer confirms that the removal of these trees within and to the north of the site would have a detrimental impact on significant trees which are important features in the Conservation Area and should be retained and would open views of any development adversely affecting the Conservation Area. The advice of the Landscape Projects Officer is that the trees within the site are important within the Conservation Area. The proposed residential development of the site, therefore, would not contribute more to the good planning of the area than retaining the trees would. Accordingly, by resulting in the loss of trees which have considerable amenity value to the Conservation Area, the residential development proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policies NH5 and DP14 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.

The significant growth of the trees on this eastern part The Glebe Field has somewhat changed the setting of the listed building of Glebe House. The indicative drawings accompanying the application indicate that the considerable tree coverage between the site of the proposed residential development and Glebe House would remain and if this was indeed the case a residential development on the site and the proposed accessing of it, depending on details relating to scale, height, positioning and other details would not necessarily be harmful to the setting of that listed building.

As detailed above the advice of the Council's Landscape Projects Officer is that a number of trees are likely to be affected by a residential development of the site but there is clearly a belt of trees within the ground to the north of the site and to the south of Glebe House which would not be affected by the development of the site. It is these trees which could prevent a residential development from harmfully impacting on the setting of Glebe House.

However, the indicative details submitted with this planning permission in principle application indicate a three storey building with a pitched roof being erected on the site. Notwithstanding the sloping nature of the site which gives it a ground level lower than that of the buildings on St.Margaret's Road (although higher than Glebe House) and the distances between the site and the existing buildings of St. Margaret's Road and Glebe House, a three storey building with a pitched roof (which appears more steeply sloping in the 'exterior visualisation' sketch submitted than it does in the site section drawing submitted), would be out of character with the surrounding area, which largely consists of two storey buildings, and would not appear subservient to the listed building of Glebe House.

Although the principle of a residential development on the site may not, for the reasons given above, harm the setting of the listed building of Glebe House and its associated boundary wall, a building of such a size, height and design as shown on the indicative drawings accompanying the application would. If planning permission in principle were to be granted, development principles would be set as conditions for the details of the siting, design and external appearance of the proposed residential development. Through such development principles restrictions could be set on the height and other details of the residential development. However, notwithstanding this control which could be set to protect the setting of the listed building, the principle of the residential development remains contrary to development plan policies for the reasons set out above.

The Council's Road Services raises no objection to the principle of a residential development on this part of The Glebe Field with access to it being formed from St Margaret's Road as indicated. Road Services confirms that subject to conditions being imposed on a grant of planning permission for this proposed development, to control cycle parking, the hard forming of the first 10 metres of the access road, controls on barrier free access for pedestrians and pedestrian priority over the access, it is content with the indicative details shown for access, pedestrian access, parking and turning. In this respect the principle of the residential development proposed is consistent with Policies DP20 (Pedestrians and Cyclists), DP22 (Private Parking), T1 (Development Location and Accessibility), and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008

In respect of the impact the proposals would have on the amenity of the surrounding residential area it is necessary to consider Policy ENV1: Residential Character and Amenity of the adopted East Lothian Local Plan which, although not covering the area of the application site, does cover the immediate residential areas around it. Policy ENV1 seeks to safeguard the predominantly residential character and amenity of existing or proposed housing areas from the adverse impacts of uses other than housing.

The site of the proposed car park is located on significantly higher ground than the residential properties located immediately to the north of the site. The applicant's agent recognises the impact forming a car park in such a position could have on the privacy and amenity of these properties. The applicant's Planning Statement and indicative drawings indicate a design approach has been to set the closest car parking spaces to those properties back from the boundary of the site with them by 3 metres and to introduce tree planting in this 3 metres wide space. Trees planted within this space would take time to establish and the growing of them would not necessarily be successful, particularly considering they would be between a hard surfaced car park and a stone wall. They would therefore not provide immediate, or possibly any, screening between the residential properties and the car park which would, even with any required regarding of the land, remain at a significantly higher level than the garden ground of the existing residential properties.

Given this, the proposed use of this site as a car park would, by its height above the residential properties to the north of it and its close proximity to them, result in use of it causing significant harm to the level of privacy and amenity that presently pertains to those neighbouring properties to the north by virtue of overlooking. Accordingly the proposal is contrary to Policy ENV1 of the adopted East Lothian Local Plan 2008 which seeks to safeguard the residential amenity of those residential properties.

The proposed car park by virtue of its positioning to the east of the side garden of 2 Marmion Road and to the north of the front garden of 1 Marmion Road would not have the same harmful impact on the privacy and amenity of these residential properties as it

would to the rear gardens of the properties to the north of it.

The Council's Environmental Health Service confirms they have no comment to make regarding the application and they therefore raise no concerns regarding the proposed use of this northern area of the Glebe Field as a car park on the impact of neighbouring residential properties in terms of noise from cars engines or light disturbance from cars headlight beams.

Although this is an application for planning permission in principle, given the distances between the land of the application site for a residential development and that of the neighbouring residential properties of the Glebe House and the residential properties of St. Margaret's Road to the south of the site, it should be possible to accommodate a residential development on this site which would not result in a significant loss of privacy and amenity for any other occupants of neighbouring houses. The site is sufficiently large and at a distance away from existing properties to ensure that future occupants of a residential development on this site should be capable of benefiting from a sufficient amount of privacy and amenity. The principle of a residential development on this site is therefore not contrary to relevant development plan policies relating to privacy and amenity.

Historic Environment Scotland has not been consulted on the application as, unlike previous applications submitted for this site, the proposals do not require listed building consent nor do they affect the setting of a Category A listed building and they are not otherwise subject to statutory consultation with Historic Environment Scotland.

The Planning Liaison Officer of North Berwick Community Council advises that the Community Council supports the proposals in principle, being of the view that the residential development, as indicatively proposed, would be small enough, far enough away from the B listed Glebe House and the St Margaret's Road properties, at a lower level than St Margaret's Road and screened by trees that it would not unduly harm the setting. The Community Council considers it would also meet a need for such accommodation near the town centre. It considers that although the site proportions would change there would remain a mid-area of grass which would retain a sense of openness. In relation to the car park proposal it considers that this would take some immediate pressure off parking at key times and help to allow time for an overall traffic management scheme to be developed. The Planning Liaison Officer also advises that the applicant, who is also a member of the Community Council, was present for the public representations which were discussed at their meeting, but he was excluded from the Community Council discussions and vote on whether or not to support the proposals.

The Council's Waste Services Manager raises no objection to the principle of the proposals.

The Council's Biodiversity Officer has confirmed that he has no comment to make on the application and is therefore satisfied that the proposed residential and car parking developments would not have any adverse biodiversity impacts, consistent with Policy DP13 of the adopted East Lothian Local Plan 2008.

The Council's Archaeology Officer advises that the application site lies within a wider area of known archaeological potential. As there is no recorded disturbance of the site there is the potential for remains to be impacted upon by the proposals. Because of this the Archaeology Officer recommends that if planning permission in principle is to be granted for this proposal, a programme of archaeological works (Archaeological Evaluation) should be carried out prior to the commencement of development. This requirement could be secured through a condition attached to a grant of planning

permission in principle for the proposed development. This approach is consistent with Scottish Planning Policy: June 2014, Planning Advice Note 2/2011: Planning and Archaeology and with Policy ENV7 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 Depute Chief Executive, Resources and People Services informs that the application site is located within the catchment area of Law Primary School, North Berwick Nursery and North Berwick High School. He confirms that there would be insufficient capacity at Law Primary School and North Berwick High School to accommodate pupils that might arise from a development of the site for 9 residential units as is indicated through this planning permission in principle application. Thus he objects to the application on the grounds of lack of permanent capacity at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of £94,204.17 towards the provision of additional school accommodation at Law Primary School and £30,244.86 towards the provision of additional school accommodation at North Berwick High School.

This education provision requirement 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 Council's Economic Development & Strategic Investment Manager advises that a grant of planning permission in principle would require to be subject to provision of 25% of all the residential units to be developed as affordable housing, through mechanisms to be agreed with the developer. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement the proposal is consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

Notwithstanding the above matters which could be controlled by conditions or planning agreements, none of the aforementioned material considerations, including housing land supply, outweigh the primary material considerations that the principle of developing parts of the Glebe Field for a residential development and for a car park would, by having a detrimental impact on this significant area of open space, on the character and appearance of the Conservation Area, on significantly important trees within the Conservation Area and, in respect of the car park proposal, on the privacy and amenity of neighbouring residential properties, conflict with the provisions of the development plan.

REASONS FOR REFUSAL

- 1 The principle of the car park development would result in the loss of the open and

undeveloped character and appearance of this part of the Glebe Field and this would be to the detriment of the overall designated area of open space which makes a significant contribution to the amenity and landscape setting of this part of North Berwick. Accordingly the car park proposal is contrary to Policy C3 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development affecting green infrastructure.

- 2 The principle of the residential development would result in the loss of the open and undeveloped character and appearance of this part of The Glebe Field and this would be to the detriment of the overall designated area of open space which makes a significant contribution to the amenity and landscape setting of this part of North Berwick. Accordingly the residential development proposal is contrary to Policy 7(a) of the approved South East Scotland Strategic Development Plan, Policy C3 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development affecting green infrastructure.
- 3 The loss of this part of this overall prominent, distinctive and historic green space for the formation of a car park would not preserve or enhance the special character and appearance of the Conservation Area rather it would be harmful to the historic character and the appearance of this part of the Conservation Area. Accordingly the proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policy ENV4 of the adopted East Lothian Local Plan 2008 Scottish Planning Policy on development within a conservation area.
- 4 By resulting in the loss of trees which have considerable amenity value to the Conservation Area, the principle of the proposed car park is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policies ENV4, NH5 and DP14 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.
- 5 The loss of part of this prominent, distinctive and historic green space for the development of a residential development along with all of the associated parking, access and turning space which would be required in association would not preserve or enhance the special character and appearance of the Conservation Area rather it would be harmful to the historic character and the appearance of this part of the Conservation Area. Accordingly the proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policy ENV4 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.
- 6 By resulting in the loss of trees which have considerable amenity value to the Conservation Area, the principle of the proposed residential development is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policies ENV4, NH5 and DP14 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.
- 7 The proposed car park use would, by its height above the residential properties to the north of it and its close proximity to them, result in significant harm to the privacy and amenity of those neighbouring properties to the north by virtue of overlooking. Accordingly the proposal is contrary to Policy ENV1 of the adopted East Lothian Local Plan 2008 which seeks to safeguard the residential amenity of those residential properties.

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).*

*[*Pages 121 - 128 of the public document pack]*

REPORT TO: Planning Committee

MEETING DATE: Tuesday 19 April 2016

BY: Depute Chief Executive (Partnership and Services for Communities)

SUBJECT: Application for Planning Permission for Consideration

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Note - this application was called off the Scheme of Delegation List by Councillor Day for the following reason: Given the significant level of public interest and debate this application has generated, I believe it should be considered by the Planning Committee.

Application No. **15/01022/PCL**

Proposal Change of use of beach area to form extension to existing car park and associated works

Location **Car Park
Marine Parade
North Berwick
East Lothian**

Applicant East Lothian Council

Per East Lothian Council

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The site to which this application relates is the public car park located on the north side of Marine Parade, North Berwick and to an area of beach that surrounds it. The site is bounded to the north, east and west by Yellow Craig beach and to the south by the public road of Marine Parade with Castle Hill Scheduled Ancient Monument beyond. The area of Yellow Craig Beach beyond the application site to the north is within the Firth of Forth Site of Special Scientific Interest and the Firth of Forth Special Protection Area. The application site is within North Berwick Conservation Area.

The existing car park is roughly finished in hard core and enclosed for the most part by grassed verge or shallow banking. It currently has capacity for 18 cars.

Through this application East Lothian Council seeks full planning permission for extensions to the existing car park and in this, the change of use of areas of beach to the

north, east and west of it to facilitate the extension. Planning permission is also sought for associated works comprising; (i) the formation of a new deltalok and rock armour sea defence wall, (ii) the hardsurfacing of the car park as it is to be extended with asphalt and the laying out on it of 4 disabled parking spaces, 33 car parking spaces, 3 motor cycle parking spaces and 8 bicycle parking spaces in the form of 4 cycle racks, and (iii) the enclosure of the north and parts of the east and west boundaries of the car park with metal post and chain fencing.

This application is accompanied by a design statement and an appropriate assessment.

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), NH1a (Nationally Protected Sites), NH1b (Sites of Special Scientific Interest), ENV4 (Development in Conservation Areas), ENV7 (Scheduled Monuments and Archaeological Sites), C3 (Protection of Open Space), DP2 (Design), DP13 (Biodiversity and Development Sites), DP16 (Flooding), T2 (General Transport Impact) and T5 (Public Parking) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

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

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

Scottish Planning Policy states that planning authorities should protect archaeological sites and monuments as an important finite and non-renewable resource and preserve them in situ wherever possible. Where in situ preservation is not possible, planning authorities should, through the use of conditions or a legal obligation, ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development.

Scottish Planning Policy states that planning authorities, and all public bodies, have a duty under the Nature Conservation Act 2004 to further the conservation of biodiversity. This duty must be reflected in development plans and development management decisions.

Also material to the determination of the application is the Council's Transportation

Strategy and the representations received from the public.

80 written representations to the application have been received. 77 of which raise objection to the application, 2 offer support for the application and 1 makes general comment. They are all from members of the public, including two made by the Right Honourable, George Kerevan MP.

The main grounds of objection raised are:

1. No justification has been provided in support of the application explaining the requirement for further car parking in this specific location;
2. The application does not suggest any potentially detrimental impacts as a result of the proposed development or propose any social and economic benefits associated with the change of use;
3. No supporting information has been provided with the application with respect to matters including alternative site assessment, ecology and landscape designations;
4. No assessment of impacts has been undertaken, no evidence of consideration of alternative sites has been provided and no imperative reasons of over-riding public interest demonstrated;
5. The proposals are contrary to Policy ENV1 of the adopted East Lothian Local Plan 2008;
6. The protection of all parts of the beach and the resistance to any loss of the beach and foreshore from built development, is of fundamental importance to the preservation of the conservation area's character and on this matter is contrary to Policy ENV4 of the adopted East Lothian Local Plan 2008;
7. As the car park will be built up to the HWMS there is accordingly a probability that this will impact detrimentally on the local beach ecosystem below the HWM and within the SSSI and SPA designations; the application fails to satisfy Policies NH1a and NH1b of the adopted East Lothian Local Plan 2008;
8. The east beach forms the boundary with an internationally protected area and is adjacent to a Site of Special Scientific Interest; they are protected by Policies NH1a and NH1b of the adopted Local Plan respectively;
9. The development is on the boundary with an internationally protected area and a site of special scientific interest and is protected by Policies NH1a and NH1b of the adopted Local Plan – the development is contrary to these policies;
10. The proposals will consume the public amenity of the beach contrary to Policies DC1 and C3 of the adopted Local Plan;
11. The proposal is contrary to conservation area development;
12. Building into the sea to MHWS, does not take into account the need to reduce carbon emissions and adapt to climate change as per outcome 2 of Scottish Planning Policy;
13. In light of climate change targets it is irrational to encourage and support greater car use;
14. Rising sea levels due to climate change will make the car park extension onto the beach onto the beach increasing difficult and expensive to maintain – it would contradict the East Lothian Environment Strategy with respect to preparing for and managing the impacts of climate change and encouraging more sustainable land use patterns;
15. Tarmacking the beach seems to go against every environmentally friendly rule in the book;
16. Building out on top of the beach is nonsensical and looks to be environmentally unfriendly;
17. The proposed development does not protect or enhance the natural or cultural assets or facilitate their sustainable use in accordance with outcome 3 of Scottish Planning Policy;
18. There is concern with ELC's policy to put cars first in North Berwick and not the environment;

19. The proposal is contrary to the Landscape Charter to which East Lothian Council is signed up to by virtue of its membership with CoSLA;
20. The proposals conflict with Outcome 3 (Communities in East Lothian able to adapt to climate change and reduced finite natural resources) Outcome 7 (East Lothian is an even safer place) and Outcome 8 (East Lothian has a high quality natural environments) of the Council's Single Outcome Agreement as it will encourage more and unnecessary travel by car; increase the quantity of traffic and congestion; make the roads eastwards along the beach less safe; block walking on the beach and obscure beautiful views and the amenity of the beach are in a Conservation Area;
21. The proposal is over engineered and has absolutely zero design thought;
22. The backward thinking proposal is wrong in terms of concept, location and design and should be refused;
23. The application has clearly been designed by engineers without any input from those with knowledge of design, aesthetics, the natural or built environment;
24. The structure would look utilitarian and awkward in an area characterised by its outstanding natural beauty;
25. The proposed design and bulk would be visually intrusive and would significantly and irrevocably damage views and public amenity;
26. Making what is a carbuncle bigger and bulkier does not get rid of the problem, it merely exaggerates it;
27. The Delta Lock System – are there examples of other coastal builds to use this system?
28. The car park extension would be a substantial physical carbuncle on the landscape and will have a major impact on tourism and visitor numbers;
29. More cars in North Berwick mean greater levels of pollution; visual pollution caused by the introduction of car parking in areas of natural beauty;
30. The proposed parking would intrude into the beach area and disrupt the shore line – the designation of Conservation Area is becoming increasingly meaningless;
31. The part of East Beach that is adjacent to Yellow Craig is one of the most popular with visitors and residents alike - the development would be damaging to this asset;
32. The beach makes a significant contribution to the recreational needs of the community and there would be a substantial loss of amenity as a result of the change of use of an existing beach area to a car park;
33. The car park extension can only damage the natural beach and the amazing birds;
34. The beach is an area of natural beauty and a treasure in East Lothian;
35. A fragile ecosystem would be disturbed, animal habitat destroyed and more pollution created;
36. The development will compromise the area and what it has to offer the local community and vital visitors to the town;
37. The long term negative effect of such plan will in fact be detrimental to the well being of local residents, their surroundings and the natural but very fragile beauty that attracts people to the area;
38. The development will have an adverse impact on the Ramsar Site and SSSI and there is no analysis of the assessment, nor evidence of the over-riding community and economic benefits that will result from the development;
39. The proposals would impact on the Firth of Forth SSSI and SPA and the effect of this has not been subject to an appropriate assessment;
40. Has there been a marine survey of the effect of the development on the sand?
41. The beach extensions would lead to a loss of amenity and would impair the habitat for the many forms of wildlife which inhabit the beach area;
42. The proposed development would not complement local features such as landscape and ecology;
43. It will promote people to take cars which is damaging to the North Berwick ecosystem;
44. No evidence has been provided that there would be no harm to the SSSI;

45. The proposal is a clumsy artificial intervention which will detract from people's enjoyment of this beautiful beach;
46. The plan is being forced through with little thought for the visual environment;
47. The proposed will have a major negative effect on the outstanding view and it is difficult to comprehend how a local authority which covers the area where John Muir was born can come up with such a suggestion;
48. The visual impact of the extended car park from the beach will be considerable;
49. The proposed car park would be extend to 1.32 metres in height and would be enclosed by 1.1 metre high metal post and chain fencing, and will constitute and substantial visual intrusion, incongruous with a landscape that is predominantly open and low lying to the detriment of its visual amenity;
50. As the character of the beach is generally as open space but with this section, contained between rock outcrops, the visual impact of any change to the beachscape will be magnified and will have a materially detrimental impact;
51. There would be detriment to the beachscape;
52. The car park extension would be damaging environmentally and its visual impact would impair the beaches natural beauty;
53. There is an obligation to consider visual impact and the proposals ignore this;
54. Respect for the landscape has not been shown by the Council in this application;
55. The car park should only be extended northward and nor to the east to avoid impacting the amenity of residents of Tantallon Terrace;
56. The car park could be hardly be more unsightly and would be visible from some significant distance in both directions;
57. The car park extension will obscure views to the west considerably;
58. The proposals are out of keeping with the rest of the beach and the gain of 20 parking spaces cannot justify the loss of the beach itself;
59. The size and scope of the car park would spoil a lovely spot, one of the many reasons visitors come to North Berwick and many locals appreciate it;
60. We should not be eating away at our immensely valuable natural resources;
61. The car park would be a concrete eyesore offering no significant impact on North Berwick's parking problem;
62. The proposed development would clearly constitute an alternative use that would affect the landscape setting of the area – alternative provision of equal community benefit is not possible;
63. The car park extension will obscure key views across the coastal landscape;
64. The beach car park neither preserves nor enhances the special architectural or historic character of North Berwick Conservation Area;
65. The development would be detrimental to the iconic view of North Berwick old town nestled around Milsey Bay, which is identified as characteristic of North Berwick in the conservation area character appraisal in the adopted East Lothian Local Plan;
66. East Beach is one of North Berwick's treasures and every care should be taken not to spoil it;
67. There would be significant visual impact unacceptable for the area and a significant loss of amenity for the people of North Berwick;
68. An extension onto the beach of the size and height proposed would totally destroy the scenic beauty of the area;
69. The proposals would be ugly and impact on the recreational use of this section of the beach which is significant given that North Berwick is a tourist destination;
70. The formal layout, materials used and quantity of car park spaces would also have a serious adverse impact on the visual amenity of the East Beach which is one of North Berwick's and East Lothian's most precious natural assets;
71. The visual impact of the proposals would be seen as far as the Seabird centre/boating pond;
72. The proposals would significantly detract from the beauty of the area;
73. To build on the beach would cause interrupted views of the beach and coastline and

interfere with walks along the coast line;

74. There would be intrusion into the conservation area and a negative visual impact;

75. The development would consume the public amenity of the beach;

76. The development would irreversibly destroy the natural environment, increase traffic, encourage the use of cars and increase noise/ air pollution;

77. YOU SHOULDN'T TARMAC A BEACH – ONLY A F***ING IDIOT WOULD TARMAC A BEACH!

78. Go listen to Joni Mitchell's 'Big Yellow Taxi' – 'they paved over paradise and put up a parking lot';

79. The effect of the eastern extension to the car park will make the car park directly visible from the houses at the beginning of Tantallon Terrace and the visual disturbance from its physical presence will be exacerbated by the movement of vehicles;

80. Reclaiming beach for car parking is extremely detrimental to the amenity of the area;

81. The proposal will remove area of beach and vegetation;

82. The extended car park is tantamount to vandalism;

83. It would not enhance the Conservation Area;

84. There would be pollution from traffic in a sensitive marine area;

85. To concrete over a beautiful section of iconic beach in order to create a car park would be laughable if it weren't so sad;

86. The proposals would be damaging to the beach which is one of the main assets of North Berwick as a town;

87. It will lower that natural charm of North Berwick;

88. There would be a negative impact on natural heritage and biodiversity, on landscape and visual amenity and access and transport;

89. If you destroy an asset of the town it will lose its appeal and therefore lose revenue;

90. The Council should endeavour to protect the beach for its towns people and visitors and should use its abilities to protect natural resources;

91. You should not be able to build on the sand area;

92. The proposal is contrary to the point of having a car park near a beach;

93. People come to visit the beach not a tarmacadam car park;

94. It will reduce the amount of beach space in a public area;

95. There are no amenities nearby the area is only used by dog walkers and walkers and any more traffic along there would be inadvisable;

96. Much wanted tourists would not park there and walk almost a mile to the town centre to shop;

97. At high tide it will be impossible to walk across the beach at this point;

98. During periods of inundation, as a result of the MHWS the beach would be impassable, requiring beach users to deviate through the car park or via the footpaths on Tantallon Terrace and Marine Parade, using beach access points at either end of the car park. This raises road safety issues due to increased interaction between pedestrians and road users;

99. The new sea defence may cause a scouring effect on the sea wall resulting in the sand levels being much lower in front of the car park; this would mean that even in a mid range tide, people would have to leave the beach and cross the car park;

100. The obstruction of the beach during periods of the MHWS would result in an adverse impact on its amenity for beach users;

101. The extended car park would have the effect of splitting the beach in two and will materially affect one of North Berwick's prize assets;

102. The development would represent an unprecedented interference with the integrity of the beach at high tide;

103. The extension of the car park into conservation land in this coastal location are in contravention of access to walking and cycling routes should not be prohibited – the proposal would prohibit access to the beach walking route;

104. To encroach on the beach so people cannot walk on the beach without having to come up onto the car park at high tide is unthinkable, dangerous and visually very

damaging to one of North Berwick's greatest assets;

105. Walkers and beach wheelchair users will have little alternative than to cut short their walk or manoeuvre their way off the beach and cross what will be a very busy car park;

106. It will make the beach impassable at high tide;

107. The proposals would separate the beach in two parts;

108. It will no longer be possible to walk along the beach at high tide;

109. An extension to the car park of the size proposed would disrupt the beach;

110. Losing the scope to walk the length of the beach is irretrievable, short sighted and not in the interests or to the benefit of residents to East Lothian;

111. Year round amenity should not be sacrificed to make parking easier for summer visitor;

112. It will create a higher chance of flooding of neighbouring house;

113. Tides higher than mean will hit the car park with all the risks and inevitable damage this will entail;

114. A few storms or high tides and the development would be ruined;

115. When flooding occurs, what assessment has been done on where the excess water will be routed to?

116. There is a total lack of information with regard the consultation with SEPA over the potential impacts of wave and tidal patterns that might occur;

117. Extending the car park to the MHWS will have a significant impact on tidal flows during the very high tides which have already caused damaged to the fragile grassed strip at the top of the beach;

118. It seems likely that tidal surges will be diverted east and west of the car park with damaging consequences to the beach;

119. Being on the high tide line the car park is at more risk of flooding with damage to parked vehicles;

120. The proposed structure will be subject to considerably more wave actions than the current car park;

121. It would require very little change in sediment movement to cause erosion of the narrow dune area resulting in potentially the undercutting of the road and the need for improved and costly sea defences;

122. The building of any feature into the beach is likely to impact on the movement of sediment and the degree of erosion and deposition of sand;

123. In such a mixed climate of unpredictable weather who will be underwriting a build on such an exposed site?

124. The impact of altering the seafront must be difficult in light of climatic uncertainty and will cause changes in the way wind and sand move along the front;

125. This is a poor idea seeing the damage the sea throws at us;

126. Extending the car park could put parked cars at risk from damage and the car park itself is not likely to be low maintenance;

127. A good structural engineer will have to take account of the long term effect of high tides, wind and sand;

128. It is nonsensical to invest large sums of money in a project that could be washed away – this could turn out to be a very expensive and unsustainable project;

129. It will unbalance the water table;

130. There are more serious proposals to encourage visitors without increasing car numbers;

131. The proposal is a short term, ill thought out solution to the ongoing long term problem of car parking in North Berwick;

132. 20 additional parking spaces will not solve North Berwick's parking problems;

133. 27 vehicles have parked on the existing car park at one time – if the Council repaired it there would be space for 30 cars;

134. Let's not have the beach ruined for a car park twice the size for only 7 more spaces!

135. The addition of very few extra parking spaces will offer no discernible change in the congestion problem of North Berwick;

136. The proposal is not a solution to the parking problem and will only make matters worse by bringing more cars through the town;
137. There has been no assessment of traffic flows submitted with the application;
138. Traffic congestion would be caused via narrow access points;
139. The road to the car park is not suitable for a higher volume of traffic;
140. To attract more cars down Marine Parade is not conducive to traffic management used in an already congested street;
141. Increases in the number of vehicles would result in more local environmental damage;
142. The size of car park will only increase the number of traffic, along a road that is already dangerous to families visiting the beach and it will always be full and therefore only increase queuing traffic and congestion;
143. It will encourage more traffic and the possibility of accidents;
144. There is increased likelihood of serious accidents as the car park encroaches on areas where children and pets are able to play freely;
145. Increasing the capacity of the car park will encourage the utilisation of the local street network by a greater volume of traffic which will adversely affect the residential amenity of residents;
146. The increase in traffic will not only impede vehicular access to residential properties but may result in degrading air quality in the vicinity to the detriment of residential amenity of local residents;
147. Marine Parade/ Tantallon Terrace is a narrow residential street that doubles as a promenade in the summer months and as such cannot realistically take any more traffic during peak weekends and summer months; an enlarged car park will set expectations in people's minds that parking will be easier and will thus generate additional traffic;
148. Unless Marine Parade is policed the cars that park there will still come back and the car park extension will not have solved the problem;
149. Illegal parking has in recent years prevented emergency vehicles from driving Marine Parade;
150. Double yellow lines should be imposed on the south side of Marine to alleviate traffic congestion;
151. The volume of traffic would make the issue of children crossing the road a real worry as there have already been near misses with cars;
152. Additional cars travelling along Tantallon Terrace will create a hazard for pedestrians;
153. Increased parking facilities at Marine Parade and Tantallon Terrace sewage works will increase the flow of traffic and lead to increased congestion in the area;
154. A recently commissioned traffic survey into car parking in North Berwick stated car parking at East Beach was probably the most poorly accessed from traffic from the west; there is no connectivity with public transport;
155. Proposals for a car park at Coos Green were dismissed by North Berwick Community Council and East Lothian Council due to increased traffic this would cause along Marine Parade; the issues are the same for this proposal;
156. The proposal to extend Tantallon Car Park, which is the subject of separate application 16/00023/PCL, if approved and implemented, will remove or substantially dilute any justification for the proposed additional capacity at Marine Parade;
157. There needs to be a wider, more considered solution to car parking;
158. The proposal is a reactionary solution to a problem which is perceived – what about other car parks in North Berwick;
159. Any parking improvement plan must address traffic flow and safety;
160. The car park, including the car park at Tantallon Terrace only serve the beach and will have no impact on the parking problem in the town;
161. More should be done to organise and signpost the extensive car parking available at the Rugby Club rather than building on top of our beautiful coastline;
162. The Council should revert the one-way system that was temporarily imposed on

School Road to force traffic away from Quadrant, Marine Parade and Tantallon Road as it has resulted in more cars attempting to park, often illegally;

163. A site opposite the Glen Golf Course Clubhouse as an alternative site may provide a sizable parking area and could also provide nearby toilet facilities;

164. There is scrub land to the east and north of The Glen Clubhouse that could be put to use as a car park;

165. A more sensible choice would be a new car park at the west side of the town so visitors would be drawn to local shops en route to either the West or East Beach;

166. There is no need for more parking in North Berwick – put up signage so visitors can easily find ample parking at The Recreation Ground, Community Centre and three town centre car park...not expensive, not intrusive and not rocket science;

167. There are other areas of the town that car parking could be built within a short walk of the beach;

168. Parking could be extended elsewhere;

169. Emergency vehicles have not been able to get to a call due to present traffic volumes on Marine Parade – it is difficult to see how the situation would be improved by the situation;

170. With many news houses being built to the south and west of North Berwick parking problems are simply going to get worse and people try and access the beach;

171. The Council should look into reducing the number of car in the town by looking into the introduction of a park and ride facility;

172. A park and ride service linking the station, west beach and town centre, harbour and Milsey Bay would go a long way to alleviate parking and access problems;

173. Park and ride facilities should be considered at either or both of the roads into the town from Dunbar and Dirleton;

174. There are plenty of areas around North Berwick where parking could be increased which means the beach could keep its beauty and people could walk to it like other beach towns who value their conservation areas;

175. The only way forward to fix North Berwick's parking problem is to have two park and ride facilities, one at either end of the town;

176. It would be better to discourage cars from coming into the narrow streets of North Berwick by encouraging people to come by train and running a shuttle bus from the station to the town or by making a park and ride facility;

177. ELC should be encouraging walking and cycling as health improvement measures;

178. Ideas for a greener North Berwick should be put forward with bicycle sharing systems at the station, the rugby ground and at Tesco's;

179. New parking provision should only be considered when there is a clear management plan in operation for existing parking to ensure that it is used efficiently;

180. We should be doing everything to minimise traffic in the town centre and seafront and maintain visiting cars on the periphery of town;

181. Sustainable alternatives should be considered;

182. This proposal inherently has negatives in terms of its sustainability;

183. The cost of the development would be better spent improving public transport connections, instead of attracting more vehicle traffic to a frequently heavily- congested small town,

184. The construction required for safety and permanency will damage the existing area and maintenance will incur considerable expense, due to prevailing weather and environmental factors;

185. Underground car parking should be considered;

186. Just improve the surface of the existing car park so that it permits more cars;

187. The car park should be left as it is but with better sea defences;

188. The existing car park is a shambles, resurfacing and drawing lines would allow plenty more cars to fit in; the extension to the car park is unacceptable;

189. Repair potholes properly;

190. This is an inappropriate use of this special area and local resources,

191. The proposals are not necessary – proper resurfacing is all that is needed and would result in more cars being able to park properly without having to onto the beach;

192. The proposal should not go ahead as it is contrary to the prior consultation and public survey carried out to address parking issues in North Berwick;

193. ELC think that the Community Council represents resident's views when they clearly do not consult them;

194. There has been no consultation in relation to the development and the reclamation of the beach for parking or any other purpose;

195. Only two households were notified of the application which might be the obligation under planning law, but this development affects landscape open to the whole town;

196. The Council are steamrolling the North Berwick population and not acting in the community's interest;

197. Huge developments without infrastructure mean the Council has lost the confidence of the population – a community council should be restored is not properly represented;

198. Start finding creative solutions by engaging with the public;

199. The development is on common good land and any management must be to the benefit of the community as a whole – this has not been demonstrated;

200. It is hard to believe that the Council would choose to build such an inappropriate development on such a sensitive site;

201. Horrified to discover this is a real proposal;

202. How East Lothian Council can consider blighting one of their very most important and prized assets, east beach is utterly flabbergasting;

203. The Council should be acting in the best interests of the public and the proposal is completely contrary to that duty;

204. A much wider more thorough public consultation and presentation should have been undertaken in addition to the small public newspaper advert as very few people buy papers these days;

205. If this wider consultation is not carried out the Council will not have a full understanding of the Public's opinion about the development on common good land;

206. The Council does not have the right to change the use of the beach to car park use as the beach is inalienable common good land and the Council does not have the authority to use the beach for any other purpose;

207. The proposal is undesirable and extremely badly thought out;

208. It is unacceptable that those living nearby the site were not advised of the application even if they are outwith the statutory notice distance – many people with an objection will have been unaware of the proposal;

209. The proposal will not benefit North Berwick – it will lower tourism;

210. There may be additional parking spaces but there are no benefits other than that and significant harm would arise;

211. North Berwick is a small town and everything is within walking distance- the only extra parking should be disabled parking;

212. The proposal is idiotic and a new level of stupid;

213. The notion of closing the car park altogether is supported;

214. It has been heard that there is to be no time limit for parking;

215. There is concern that the Council may charge for the use of the car park;

216. It will lower property prices;

217. The proposal would pave the way for the coastline to be built on with no respect for what should be protected;

218. To start using the beach for parking, even in a small way, sets a very dangerous precedent;

219. Future generations would not thank us for concreting a beach to create parking because we're too lazy to walk;

220. It is a bad allocation of Council funds in an age of tight financial constraint and;

221. In these days of budgetary constraint, the Council should repair the existing car park as this is less expensive and a much less intrusive solution.

Comments made in support and raised generally to the application are:

1. There is a need for additional parking in North Berwick to cater for the increasing number of residents and for visitors;
2. Our parking requirements are year round and not just in the summer months and any who lives in North Berwick knows this;
3. Suggestions to make driver's park outside the town would put day trippers off visiting and destroy the vibrant High Street;
4. There is a movement on North Berwick conservation which consists of 150 residents who live near the car park sites who are vocal and appear to speak on behalf of the town – there is a population of near 7000!
5. The beach car park is an existing car park and the proposal is to extend it not to form a new one;
6. The application is supported as it supports both residents and tourists and the economy of the town and also because most people only comment if they object!
7. The resurfacing of the car park is a must and the sea defences are welcome;
8. Taking the opportunity to extend the current car park to provide additional capacity is welcome;
9. The conservation area does allow maintenance and extension and this would be an extension to an existing car park;
10. It is cost effective to undertake the extension at the same time as resurfacing the car park and putting in sea defences;
11. There would only be a minimal time occurrence when a path across the beach would be blocked otherwise there is an alternative path through the car park;
12. The facility for those who need to use their car or bike will be available to allow more people to access the coast if they have to rely on transport to get there;
13. It will help to address the congestion on Marine Parade during holiday season;
14. The only way forward is to have park and ride facilities one at either end of the town;
15. Dealing with the perennial problem of car parking is absolutely vital if North Berwick is going to keep growing at the rate that developers would like; and
16. Park & ride is a well recognised way of controlling car numbers in a town and the world over – money could be spent on this system and not on extending the car park;

As a consultee for the application North Berwick Community Council make the following comments:

1. There is anxiety in extending the car park 8.5 metres seaward as at high tide it will not allow walkers to continue on the beach;
2. There may be severe sand scouring as at present sand can rise and fall regularly;
3. There may be coastal erosion;
4. There may be increased traffic on what is a single track road because of existing parking on the road. A queue of vehicles occasionally builds back along Marine Parade because of parking on both side. There are two examples of emergency vehicles being stuck;
5. The proposed plan would spoil the view;
6. North Berwick doesn't need more parking;
7. North Berwick as a tourist and holiday town depends on people being able to park safely along the front;
8. Poor parking may reduce when the proposed parking attendants start later in the year;
9. An increase in safe parking off road with a proper surface and drainage would be welcomed;
10. Double yellows to the west would help; and
11. Proper signage in the town would make and overall improvement to traffic management.

With reference to the representations of objection and for the avoidance of doubt it should be clarified that this application proposes an extension to an existing car park and not the provision of a new car park on the site.

The impact of the proposals on property values is not a material consideration in the determination of an application for planning permission.

Whether the Council should seek to implement park and ride facilities within the town of North Berwick and matters concerning the rationale for doing so are not material considerations in the determination of this application for planning permission.

Whether the Council is permitted to develop an area of common good land is a legal matter between the Council and the respective disputing party. It is not a material consideration in the determination of this application for planning permission.

Proposals to form car parking in alternative locations within the town of North Berwick would have to be the subject of a new application(s) for planning permission and considered on their own merits or otherwise. Similarly this application for planning permission must be considered on its own merits.

A concern expressed by objectors is that approval of this application would set a precedent for other development on the beach and therefore the countryside and undeveloped coast, which would compromise the landscape character and appearance of the area including North Berwick Conservation Area.

This application for planning permission for the development proposed in it stands to be determined on its merits or otherwise. It would be for the Planning Authority through the determination of any other application for planning permission to decide on the merits or otherwise of the development proposed in it.

The compliance or otherwise of the proposals with The Landscape Charter the Council is alleged to have endorsed by virtue of its Membership with CoSLA or the Outcomes of the Council's Single Outcome Agreement are considerations for the Council as applicant and developer for this application. They are not material considerations in the determination of this application for planning permission.

The loss of a private view is not a material consideration in the determination of an application for planning permission.

Matters of indiscriminate parking on Marine Parade and in other areas of the town are controllable under legislation other than planning legislation. They are not a material consideration in the determination of this application for planning permission.

Section 65 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that where an application for planning permission for any development of land is made to a planning authority and the development would, in the opinion of the authority, affect the character or appearance of a conservation area, the planning authority shall (a) publish in a local newspaper circulating in the locality in which the land is situated, and (b) for not less than 7 days display on or near the land a notice indicating the nature of the development in question and naming a place within the locality where a copy of the application, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice.

For the purposes of Section 65 an advert was placed in both The East Lothian Courier and Edinburgh Gazette on 22 January 2016. Furthermore a site notice was displayed adjacent to the site for a period not less than 7 days.

Under Regulation 18 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 the Planning Authority gave notice to all owners, lessees or occupiers of premises on neighbouring land and thus premises on land any part of which, is conterminous with or within 20 metres of the boundary of the land for which the development is proposed. Notice was served to neighbours on 18 January 2016.

Under the terms of Regulation 18 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, each notice stated that representations could be made to the planning authority and included information as to how any representations could be made and by which date they must be made (being a date not earlier than 21 days after the date on which the notice is sent).

In respect of wider transportation matters, the adopted East Lothian Local Plan 2008 is one aspect of the Council's approach to transportation, which includes other policy documents such as the Local Transport Strategy (LTS) and Local Air Quality Strategy. The Council's first LTS was published in 2001 and sets out its transport and travel vision to the year 2020. The prime objective of the strategy is to reduce the overall dependence on the private car and to promote the availability and use of alternative, more sustainable modes of transport where practical to do so. The adopted East Lothian Local Plan 2008 does not contain any transportation policies relating to the car park at Marine Parade or any proposals to extend the existing car park.

The Council's Road Services confirm that there have been a number of parking, traffic and environmental studies undertaken in North Berwick since 2000, all of which to some degree have highlighted the need to increase parking provision by various methods such as maximising the efficiency and the operation of parking, improving control and turn-over, increasing supply and demand management techniques. A questionnaire was placed on the Council's Consultation Hub between 24th March – 5th May 2014, seeking a consensus of opinion on various parking and traffic related issues.

One of the findings of the questionnaire was that there was support to upgrade and increase the capacity of beach front car parks including that of Marine Parade.

Following on from this consultation exercise the Council's Depute Chief Executive, Partnerships and Community Services recommended in his report to Cabinet of 10 March 2015 on the 'North Berwick Parking Strategy Update' that Cabinet approve a 3 year strategy to amend or make the necessary Traffic Orders to purchase the requisite land, to obtain the necessary consents and to construct new car park provision as detailed in Appendix 1 of his Report. This includes the upgrade and increase in capacity of the Marine Parade Car Park, including the sewage works car park at Haugh Road / Tantallon Terrace. Furthermore the introduction of a Traffic Regulation Order (TRO) to ban overnight parking following an 18 month experimental order to establish the effectiveness and operational practicalities of the Order. These recommendations were approved by Cabinet on 10th March 2015.

Notwithstanding the consideration of the Council's accepted position that there is a lack of off street parking provision in North Berwick and Cabinet's decision to pursue additional parking improvements including, potentially, the provision of additional parking as an extension to Marine Parade car park, the principal determining factor in this case is whether, the proposed development is acceptable having regard to national, strategic

and local planning policy and guidance and other material considerations.

The Councils Transportation Planning Officer raises no objection to the application. However in responding to matters raised concerning general transport impact and the provision of additional parking, he advises that that the proposals the subject of this application have been made to address both a lack of parking provision and to upgrade coastal protection. In adding much needed parking provision it is considered that the car park will off-set indiscriminate on-street parking within the area.

The Council's Transportation Planning Officer is satisfied that the proposals will not have any adverse consequences for road safety, the capacity of the surrounding road network to deal with traffic unrelated to the development and thus residential amenity as a result of motorised traffic. On these considerations the proposals do not conflict with Policy T2 of the adopted East Lothian Local Plan 2008.

On the provision of publicly available short stay car parking the Councils Transportation Planning Officer is satisfied that the proposals will contribute to the vitality and viability of the town centre and on these considerations do not conflict with Policy T5 of the adopted East Lothian Local Plan 2008.

The application site, including the existing car park and part of Yellow Craig beach on the east side of North Berwick, is within an area covered by Policies DC1 (Development in the Countryside and undeveloped Coast) and C3 (Protection of Open Space) of the adopted East Lothian Local Plan 2008. By being within North Berwick Conservation Area it is also within an area defined by Policy ENV4 (Development within Conservation Areas) of the adopted East Lothian Local Plan 2008. The area of Yellow Craig Beach beyond the application site to the north, is within the Firth of Forth Site of Special Scientific Interest and the Firth of Forth Special Protection Area and accordingly, is within an area covered by Policies NH1a (Internationally Protected Areas) and NH1b (Sites of Special Scientific Interest) of the adopted East Lothian Local Plan 2008.

The applicant has submitted a design statement in support of this application. In it they advise that to improve the capacity of the car park the width rather than the length, to any great extent, is proposed to be increased so as not to adversely affect the outlook from neighbouring residential properties. The increase in width would be taken only to the Mean High Water Spring so as not to encroach on the SSSI to the north of the site. To maximise the number of parking bays within the car park, a 45 degree echelon system would be adopted for the width of the car park. The delta lock system and rock armour are proposed as the main coastal protection of the car park. Post and chain fencing was selected to improve visibility from the car park and to be more in keeping with its location.

The existing car park is comprised of a rough pot-hole laden hardcore surface measuring some 6.62 metres wide and some 92 metres long. One way access and egress from and onto the adjacent public road of Marine Parade is taken from height restricted vehicular accesses formed in the western and eastern parts of its south boundary respectively. A low stone retaining wall supporting a grass verge forms the remainder of its south boundary and combined, extend some 0.82 metres to the south of the hardcore surface of the car park. The north and west and east boundaries of the car park are comprised of grass banking supported for the most part by a network of sleepers and sand. They extend some 1.9 metres northward beyond the hardcore surface of the car park. Informal pedestrian access points to the beach breach parts of the grass banking and sleepers.

In changing the use of parts of the beach that bounds the north, east and west sides of the existing car park it is proposed to extend the existing hardcore surface of the car park and finish it in asphalt. In this, the car park surface would be extended some 6.9 metres

north of its current position, at its greatest extent, some 14.6 metres eastward and some 2.6 metres westward. A sea defence system in the form of Deltalock bags and rock armour would extend some 3.65 metres north of the new car park surface. However, only 2.35 metres of the deltalock system and rock armour would be exposed above beach level. The sea defence system would have a combined height of some 1.4 metres when measured from beach level. This would be some 0.32 of a metre higher than the existing grass banking and sleeper system currently in place. The northern part of the finished car park surface would be some 1.32 metres above existing beach level. This would be some 0.4 of a metre higher than the existing surface of the car park. In their sectional relationship with the roadside wall to be retained on the south boundary of the car park, the combined height of the delta lock system and exposed rock armour would be no greater in height than the roadside wall. A 1.1 metres high metal post and galvanised chain fence would enclose the north and parts of the east and west sides of the car park and thus would be erected on top of the deltalock system.

A total of 37 car parking spaces would be provided within the car park with 4 of those being allocated for disabled users. 3 motor cycle parking spaces and 8 bicycle parking spaces in the form of 4 cycle racks would also be provided.

In further supporting information the applicant advises that the design of the extended car park seeks to use an environmentally proven solution of interlocking bags (Deltalock) which are soil filled and free draining to accommodate all forms of vegetation. It is proposed to re-plant marram grass on the perimeter of the car park. The marram grass will add stability to the structure and the interlocking modular bags structure will provide a natural habitat for the grass to grow. As the marram grass will be placed around the car park in conjunction with the modular bag structure it will assist with potential scouring of the beach combined with the proposed rock armour defences. The rock armour's main purpose will be to diminish the wave action so no scouring or very little is expected. The drainage is sufficient to address typical stormy conditions. It is not designed to address exceptional circumstances as typical design standards do not allow for worse case scenarios to be predicted. With regards the movement of sand on the beach this is a natural phenomenon and is influenced by wave action and wind. Changes in tidal channels may also have an affect but there is no evidence to suggest that increasing the width of the car park will create sand banks along the beach.

Policy DC1 (Development in the Countryside and undeveloped Coast) of the adopted East Lothian Local Plan 2008 states that development, including changes of use, will be acceptable in principle within the countryside and undeveloped coast where it is of an appropriate scale and character for its proposed location, it can be suitably serviced and accessed and there are no significant traffic or other environmental impacts. Part 5 of Policy DC1 requires that, in all cases, development should be compatible with its surroundings, minimise landscape impact, have no significant adverse impact on nearby uses, minimise the loss of prime agricultural land and that suitable access and infrastructure is or can be made available.

Policy DP2 of the adopted East Lothian Local Plan 2008, amongst other things, requires that all new development must be well designed and integrated into its surroundings.

In this case regard must also be paid to the desirability of preserving or enhancing the character or appearance of the North Berwick Conservation Area as required by Scottish Planning Policy: June 2014 and Policy ENV4 of the adopted East Lothian Local Plan 2008.

As stipulated in Policy ENV7 of the adopted East Lothian Local Plan 2008 new development that harms a scheduled monument or its setting will not be permitted.

The existing car park occupies a prominent roadside location on the north side of Marine Parade, North Berwick. To the south of it, beyond the public road of Marine Parade, is Castle Hill Scheduled Ancient Monument. The extension to the car park and the works associated with it would be visible in approaches to the car park from Tantallon Terrace to the east and in approaches from the public road and footpath on the south side of Marine Parade to the south and west, in long distance views from Melbourne Road to the west and from the inclining road of Haugh Road to the east. They would also be visible from the beach and thus from the area of public open space to the north of it.

The proposed extension to the car park and the works associated with it would all be seen in relation to the size and massing of the existing car park. They would rationalise the form and functionality of the car park. The proposed coastal defence system in the form of daltalock and rock armour would not be inappropriate for its place. The re-introduction of marram grass on the extended perimeter of the car park and thus on parts of the daltalock and rock armour system would sensitively integrate the development into its surroundings. In all of this, the proposed car park extension and the works associated with it would not be unduly prominent and would not appear harmfully intrusive, incongruous or exposed in their coastal landscape setting. Due to their extent, form and appearance and the functional appropriateness of their positioning alongside the existing car park, they would not harm the character and appearance of the landscape of the area including the character and appearance of the Conservation Area. Nor would they be harmful to the setting of the adjacent Castle Hill Scheduled Ancient Monument.

The beaches that form the coastline of North Berwick make a positive contribution to the setting of the town. Moreover they are an important recreation and leisure resource for residents and visitors to the town. From the application site the beaches comprising East Bay and Milsey Bay are visible as well as the built form that forms the coastline character of North Berwick. Although the proposed car park extension would protrude onto areas of beach and thus onto area of public open space, it would not obscure greater coastal landscape views that currently exist. The proposals would not so affect the public's appreciation and enjoyment of the coastal views and amenity value of the beaches of North Berwick and the relationship of the beach to this part of the Conservation Area as to be unacceptable and justifiable of a reason for refusal to grant planning permission for the proposed development.

Historic Environment Scotland raises no objection to application. They do not have any comments to make on the proposals, being satisfied that they would not impact on the setting of Castle Hill Scheduled Ancient Monument.

On these considerations the proposals do not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), with Policies DP2, ENV4 or ENV7 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: June 2014.

Policy C3 of the adopted East Lothian Local Plan 2008 states that recreational, leisure and amenity open space and facilities which make a significant contribution to the recreational needs of the community or the amenity or landscape setting of an area will be retained in use as such. Alternative uses will only be considered where there is no significant loss of amenity or impact on the landscape setting and; (i) the loss of part of the land would not affect its recreational, amenity or landscape potential, or (ii) alternative provision of equal community benefit and accessibility would be made available, or (iii) provision is clearly in excess of existing and predicted requirements.

The areas of beach proposed to be changed in use to form the extension to the existing car park are only a small part of the much larger area of public open space of Yellow Craig Beach and the wider beach environment at North Berwick. Due to the extent of the land that would remain as public open space the loss of a very small part of the beach, in its position close to the existing car park would not compromise the landscape setting or recreational, leisure or amenity potential of the much larger area of recreational, leisure and amenity open space to the north of it. Nor would it set a precedent of other changes of use to the remaining larger area of recreational, leisure and amenity open space.

The Council's Principal Amenity Officer raises no objection to the proposed change of use.

Accordingly, the proposed change of use would not conflict with Policy C3 of the adopted East Lothian Local Plan 2008.

With regard to international, national and locally designated areas and sites, Paragraph 202 of Scottish Planning Policy: June 2014 states that 'the siting design of development should take account of local landscape character. Development Management decisions should take account of potential effects on landscapes and the natural and water environment, including cumulative effects. Developers should seek to minimise adverse impacts through careful planning and design, considering the services that the natural environment is providing and maximising the potential for enhancement'.

Paragraph 203 of Scottish Planning Policy states that planning permission should be refused where the nature or scale of proposed development would have an unacceptable impact on the natural environment. Direct or indirect effects on statutorily protected sites will be an important consideration, but designation does not impose an automatic prohibition on development.

Paragraph 204 of Scottish Planning Policy states that Planning Authorities should apply a precautionary principle where the impacts of a proposed development on nationally or internationally significant landscape or natural heritage resources are uncertain but there is sound evidence that significant irreversible damage could occur. The precautionary principle should not be used to impede development without justification. If there is any likelihood that significant irreversible damage could occur, modifications to the proposal to eliminate the risk of such damage should be considered. If there is uncertainty, the potential for research, surveys or assessments to remove or reduce uncertainty should be considered.

With regard to international designations, paragraph 207 of Scottish Planning Policy states that sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) make up the Natura 2000 Network of protected areas. Any development proposal likely to have a significant effect on these sites which is not directly connected with or necessary to their conservation management must be subject to an "appropriate assessment" of the implications for the conservation objectives. Such plans or proposals may only be approved if the competent authority has ascertained by means of an "appropriate assessment" that there will be no adverse effect on the integrity of the site.

Policy NH1a of the adopted East Lothian Local Plan 2008 stipulates that development which would have an adverse effect on the conservation interest of a Natura 2000 area (including proposed Special Protection Areas or Special Areas of Conservation) or a Ramsar site will only be permitted in the following circumstances, (i) there are no alternative solutions, and (ii) there are imperative reasons of over-riding public interest, including those of a social or economic nature.

Policy NH1b of the adopted East Lothian Local Plan 2008 stipulates that development affecting SSSI's will only be permitted where it can be demonstrated that; (a) the objectives of designation and overall integrity of the site will not be compromised; or (b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, economic or environmental benefits of national importance; and (c) there are no alternative solutions.

Policy DP13 of the adopted East Lothian Local Plan 2008 generally presumes against new development that would have an unacceptable impact on the biodiversity of an area.

The application site lies immediately to the south of the Firth of Forth Site of Special Scientific Interest (SSSI) and the Firth of Forth Special Protection Area (SPA). Scottish Natural Heritage (SNH) advises that these designations are in place to protect the nationally important geology (SSSI) and nationally and internationally important bird population (SSSI/ SPA) of the Firth of Forth.

SNH recognise there will be no land take from within the SSSI/ SPA of the Firth of Forth. However, they consider it likely that machinery required in the construction of the extension to the car park may require access to the SSSI or that materials may be temporarily stored there. They advise that the SSSI in this location serves to protect the nationally important geological feature: Carboniferous – Permian Igneous Stratigraphy and any exposed bedrock around the application site will form part of this geological feature. They therefore recommend a condition be imposed on a grant of planning permission to safeguard this geological feature and any exposed bedrock during construction from damage from machinery and the storage of materials.

To avoid damage to the SSSI, SNH recommend a condition be imposed on a grant of planning permission that the beach habitat be restored through the removal of construction materials and the reinstatement of any excavated areas.

These matters can competently be controlled by conditions of a grant of planning permission.

SNH advise that a sand beach is a dynamic environment and that constructing hard engineering structures in such an environment could lead to the unintended erosion or accretion of beach material. The Council's Countryside Officer has confirmed that neither erosion nor accretion are significant adjacent to the application site.

SNH advise that the proposals could affect the Firth of Forth SPA which is also notified as a Ramsar Site. The qualifying species of the Firth of Forth SPA are identified as wintering and passage birds (waders and wildfowl) that are known to use the area. These birds feed on the intertidal sands and mudflats (waders) and inshore waters (seaducks, grebes and divers) and also roost above the high tide line. SNH further advise that the potential effects on these species include disturbance and displacement during the construction works. In accordance with the Conservation (Natural Habitats, &c.) Regulations 1994, more commonly known as the 'Habitat Regulations', they recommend the Council undertake an appropriate assessment to ascertain the impacts of the development on the qualifying interests of the Firth of Forth SPA.

Regulation 48(2) of the Habitats Regulations states that the applicant shall provide such information as the Council may reasonably require for the purposes of the assessment.

In support of this application and in response to the recommendation made by Scottish Natural Heritage, an Appropriate Assessment has been submitted by the Council. The

Appropriate Assessment has been undertaken in consultation with SNH. The Appropriate Assessment informs that SNH identified the potential for birds to be displaced or disturbed by the construction or alteration of the car park. It advises that the Council agrees with this conclusion of 'likely significant effect'. The Appropriate Assessment has been carried out to determine whether displacement or disturbance will affect the integrity of the Firth of Forth Special Protection Area (SPA).

The Appropriate Assessment advises that a number of possible impacts on the SPA were considered by SNH, including:

1. Disturbance and/ or displacement of species during construction work;
2. Impacts on habitats within the SPA;
3. Impacts on the structure and function of the ecological processes in the SPA AND;
4. The potential for species to be lost from the SPA.

Of these impacts, only the first impact was considered to have a 'likely significant effect' on the SPA. Since the proposal to the site is immediately adjacent to the SPA boundary there is the potential for construction work to disturb or displace roosting waders or wildfowl.

With respect to the effect of the disturbance/ displacement on the integrity of the SPA the Appropriate Assessment identifies a number of local factors that influence the extent to which disturbance or displacement is a significant issue:

1. Construction activity will be of short duration, i.e. up to a few weeks only;
2. The construction site covers only a small area only, and disturbance will affect an extremely small fraction of the SPA;
3. The application site is already subject to background levels of disturbance due to its location on a popular recreational beach within a settlement and;
4. There are extensive areas of similar habitat in the vicinity of the application site.

The conclusions of the Appropriate Assessment are that due to the short duration of the construction work disturbance will not be a permanent feature of the site. Any disturbed or displaced birds could make use of other areas of the SPA during the construction period. It is therefore considered that there will be no adverse effects on the integrity of the SPA.

The Council's Biodiversity Officer advises that the proposed car park extension would cause the loss of a relatively small area of coastal grassland. Habitat impacts would be small and landscaping of the extended car park would provide an attractive coastal setting and wildlife resource. He therefore raises no objection to the application being satisfied the proposals would not impact on coastal habitats adjacent to the Firth of Forth SSSI and SPA.

The Appropriate Assessment has identified that the proposals would not have any adverse effect on the conservation interests of the SPA. Subject to the aforementioned controls to safeguard the Firth of Forth SSSI the proposals would not compromise the objectives or designation and overall integrity of the SSSI. Accordingly, the proposals do not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) June 2013, Policies NH1a, NH1b and DP13 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: June 2014.

The Scottish Environment Protection Agency (SEPA) advises the site lies within the 0.5% annual probability flood extent of the SEPA Flood map and is potentially at medium likelihood of coastal flooding. The predicted 0.5% annual probability flood level in the vicinity of the site is 3.9m AOD based at extreme still water level calculations using

Coastal Flood Boundary Method. This does not take account of the potential effects of climate change and wave action and as such the risk could be greater than this.

They further advise that the extension to the car park is considered low sensitivity and given the flood risk is only coastal there is unlikely to be any impact on flood risk elsewhere as a result of the development. They therefore raise no objection to the application on flood risk grounds. They do however recommend that given the potential to be exposed to large waves that warning signs be erected to advise car park users of the potential rise of wave overtopping during storm events. This matter can reasonably be imposed on a condition of a grant of planning permission.

With regards surface water discharges to coastal waters SEPA confirm that the arrangements for surface water to be directed to an existing surface water line are acceptable.

Subject to the aforementioned control the proposals are consistent with Policy DP16 of the adopted East Lothian Local Plan 2008.

CONDITIONS:

- 1 Prior to use being made of the car park as it is hereby approved to be extended and altered, warning signs shall be erected within the car park to alert users of it of the potential for exposure to large waves. Details of the form and positioning of the warning signage shall be submitted for the approval of the Planning Authority prior to it being displayed. Once displayed the signage shall remain in place and shall accord with the details approved of it, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of public safety.

- 2 No development shall take place until there has been submitted to and approved in writing by the Planning Authority details of the location and method of the storage of construction materials and machinery to be used during the construction phase. The details shall include the methods for protection of bedrock during construction. The means of storage of materials and machinery, the location for them and the method for protection of bed rock shall accord with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To safeguard exposed bedrock that is an important geological feature of the Firth of Forth Site of Special Scientific Interest.

- 3 Prior to use being made of the car park as it is hereby approved to be extended and altered, or the completion of the development, whichever is the sooner, the beach habitat shall be restored through the removal of stored construction materials and machinery and any areas of beach excavated to facilitate the development shall be reinstated.

Reason:

To safeguard the Firth of Forth Site of Special Scientific Interest and Special Protection Area.

- 4 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of; the height and slopes of any mounding on or recontouring of: the site, shrub sizes, species, habitat, siting, planting distances and a programme for planting. Non-thorn shrub species should be located adjacent to pedestrian areas.

Reason:

In order to ensure a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 5 All planting or seeding comprised in the approved landscaping scheme shall be carried out in the first planting and seeding season following the use of the extended car park or the completion of the development, whichever is the sooner, and any 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.

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).*

*[*Pages 150 - 154 of the public document pack]*

REPORT TO: Planning Committee
MEETING DATE: Tuesday 19 April 2016
BY: Depute Chief Executive (Partnership and Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

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Note - this application was called off the Scheme of Delegation List by Councillor Goodfellow for the following reason: As this application has generated both public interest and discussion, I believe the Committee should have the opportunity to fully assess it.

Application No. **16/00023/PCL**
Proposal Change of use of grassed area to form car parking area
Location **Tantallon Terrace Car Park
Tantallon Terrace
North Berwick
East Lothian**
Applicant East Lothian Council
Per East Lothian Council

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to an area of grassed ground located to the west of an existing car park on the north side of Tantallon Terrace, North Berwick. It is bounded to the north by a picnic area with the beach of Milsey Bay beyond, to the south by the public road of Tantallon Terrace/ Haugh Road with a Scottish Water Waste Water treatment works beyond, to the west by an area of grassed open space and to the east by a grassed area of open space with a car park beyond. The area of Milsey Bay beach beyond the application site to the north is within the Firth of Forth Site of Special Scientific Interest and within the Firth of Forth Special Protection Area.

In its coastal location the grassed area of open space the subject of this application is within an area covered by Policies DC1 (Development in the Countryside and undeveloped Coast) and C3 (Protection of Open Space) of the adopted East Lothian Local Plan 2008. The area of Milsey Bay beach beyond the application site to the north,

is within the Firth of Forth Site of Special Scientific Interest and within the Firth of Forth Special Protection Area and accordingly, is within an area covered by Policies NH1a (Internationally Protected Areas) and NH1b (Sites of Special Scientific Interest) of the adopted East Lothian Local Plan 2008.

The area of grassed ground measures some 38.6 metres long by some 5.2 metres wide. It is comprised of roughly grassed ground with shrubs planted on it. It forms part of an existing picnic area. It is enclosed on its south side by a low stone wall and is otherwise without enclosure.

Through this application East Lothian Council seeks full planning permission for the change of use of the area of ground to form a car parking area and the laying out on it of 15 parking spaces, one of which would be for a disabled user. The proposed car parking area would be an extension to the existing car parking area to the east of the application site.

There are other works of alteration to the existing car park and for sea defence works shown on the application drawings. Those works are normally defined as permitted development.

Regulations 60 to 63 of the Conservation (Natural Habitats Etc) Regulations 1994 provide that any development which is permitted development, is likely to have a significant effect on a European site and is not directly connected with or necessary to the management of the site, shall not be begun without the approval of the planning authority.

If the proposed works will not have a significant effect on a European Site, it will still enjoy the normal permitted development rights. However the Conservation (Natural Habitats Etc) Regulations 1994 provide a procedure for obtaining the opinion of Scottish Natural Heritage (SNH) to ascertain the effects of a proposed development on the European Site. In this case SNH, in providing pre-application comments on this application, advised that there would be no adverse effects on the integrity of the Firth of Forth SSSI and SPA. On these considerations and under the provisions of Class 33 of Part 12 of The Town and Country Planning (General Permitted Development)(Scotland) Order 1992, as amended, the other proposed works in the form of alterations to the existing car park and for sea defence are permitted development and as such do not require planning permission. They do not therefore part of this application and thus they are not a material consideration in the determination of this application.

This application is accompanied by a design statement and an appropriate assessment.

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), NH1a (Nationally Protected Sites), NH1b (Sites of Special Scientific Interest), C3 (Protection of Open Space), DP2 (Design), DP13 (Biodiversity and Development Sites), DP16 (Flooding), T2 (General Transport Impact) and T5 (Public Parking) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application is the Scottish Government's Scottish Planning Policy: June 2014 on development affecting internationally protected sites.

Scottish Planning Policy states that planning authorities, and all public bodies, have a duty under the Nature Conservation Act 2004 to further the conservation of biodiversity. This duty must be reflected in development plans and development management decisions.

Also material to the determination of the application is the Council's Transportation Strategy and the representations received from the public.

A total of 7 written representations have been received to the application. 5 of which raise objection to the application and 2 make general comment. They are made by or on behalf members of the public.

The main grounds of objection raised are:

1. The development appears to take up the full width of the beach and would mean at high tide it you would not be able to walk the length of the beach;
2. The year round amenity value of the beach should not be sacrificed to make parking easier for summer visitors;
3. It is shocking how little concern ELC shows for the environment, our precious commodity – it should be looked after and not threatened;
4. The proposal is contrary to SPP and the adopted East Lothian Local Plan 2008;
5. The effect of the proposed development on the Firth of Forth Ramsar Site, SSSI and SPA is unclear as no supporting information has been assessing the impact on the designated sites has been provided with respect to site assessment, ecology, landscape and visual impact and transport impact;
6. No imperative reasons of over-riding public interest have been demonstrated and is considered to be a high order test in planning policy terms;
7. The proposed coastal protection works will impede access to the beach, particularly during periods of inundation as a result of the MHWS resulting in an impact upon amenity for residents and visitors who use the beach for leisure and recreation;
8. An increase in the capacity of the car park will contribute to an increase in traffic in the local street network compounding the congestion already on these streets to the detriment of the residential amenity of local residents;
9. No justification has been given rationalising the requirement for additional car parking in this sensitive location;
10. Bringing more cars along the seafront is not a solution to the problem but will make matters worse;
11. The seafront car parks and roads cannot cope with the amount of cars pouring into the town;
12. The proposals will make what is already extremely hazardous for pedestrians crossing the road to the beach even more dangerous;
13. Consider alternative solutions that will have a positive impact on the town;
14. The proposals would have an impact on the attractiveness of the beach from Milsey Bay and would lead to a loss of amenity and impair an important habitat for many forms of wildlife;
15. There is an obligation for planning proposals to consider visual impact – changes which have outstanding views to the Bass Rock, Craigleith and May Island would ignore this obligation;
16. The works would cut the beach in two at high tide and other times.
17. People enjoying the beach will have to cross the car park to get to the other side of the beach – this would be dangerous, particularly for children and fundamentally at odds

with preserving the amenity and attractiveness of our seas and natural coastline;

18. Why is coastal protection required?
19. A query of the estimate of the mean high tide line;
20. Tides higher than the mean will hit the car park with all the risk and inevitable damage this will entail;
21. What assessment has been done on where excess water that hits the car park will be routed?
22. It seems wrong to encourage exhaust fumes down in an area where we all wish to go to take walks, fills our lungs with fresh air and encourage children to play and enjoy our beautiful environment;
23. The proposal would threaten the amenity of walkers from the caravan park;
24. A consultant report into car parking in North Berwick stated car parking at East beach is probably the most poorly accessed location for traffic from the west;
25. Traffic would need to be routed through the town centre via a circuitous route around the A198. Marine Parade is also a narrow street;
26. There is no connectivity with public transport;
27. Extending the car park is not sensible or logical – there should be a new car park at the west side of the town to attract visitors to the West or East Beach;
28. Building out to the MHWS does not take account of SPP with regard reducing carbon emissions and adapting to climate change;
29. The proposed development does not help to protect or enhance our natural and cultural assets and facilitate their sustainable use in respect of Outcome 3 of SPP;
30. The development does not complement local features such as landscape and ecology;
31. The development considers place and need of people before the movement of motor vehicles;
32. The development could include higher densities and a mix of uses that enhance accessibility by reducing reliance on the private car and prioritise sustainable and active travel choices;
33. It could have included paths and routes which connect places directly with facilities that link different means of travel;
34. No additional traffic should be attracted to this narrow no through road;
35. People will enjoy the beach more if it is not spoilt by cars and fumes; and
36. The proposals would conflict with Policies ENV4, ENV5 and C3 of the adopted East Lothian Local Plan 2008.

Other main points raised in representation to the application are:

1. Scottish Water has concerns about the servicing of its own site on completion of the development;
2. The only way forward is to have park and ride facilities one at either end of the town;
3. Dealing with the perennial problem of car parking is absolutely vital if North Berwick is going to keep growing at the rate that developers would like;
4. Park & ride is a well recognised way of controlling car numbers in a town and the world over – money could be spent on this system and not on extending the car park;

The servicing of adjacent wastewater treatment works is not a material consideration in the determination of this application.

Whether the Council should seek to implement park and ride facilities within the town of North Berwick and matters concerning the rationale for doing so are not material considerations in the determination of this application for planning permission.

North Berwick Community Council, as a consultee for the application, raises no concern with the proposal. They do however comment that logs should be used to delineate the

15 parking spaces to discourage large vehicles from parking parallel to the sea across several parking spaces.

In respect of wider transportation matters, the adopted East Lothian Local Plan 2008 is one aspect of the Council's approach to transportation, which includes other policy documents such as the Local Transport Strategy (LTS) and Local Air Quality Strategy. The Council's first LTS was published in 2001 and sets out its transport and travel vision to the year 2020. The prime objective of the strategy is to reduce the overall dependence on the private car and to promote the availability and use of alternative, more sustainable modes of transport where practical to do so. The adopted East Lothian Local Plan 2008 does not contain any transportation policies relating to the car park at Tantallon Terrace or any proposals to extend the existing car park.

The Council's Road Services confirm that there have been a number of parking, traffic and environmental studies undertaken in North Berwick since 2000 all of which to some degree have highlighted the need to increase parking provision by various methods such as maximising the efficiency and the operation of parking, improving control and turn-over, increasing supply and demand management techniques. A questionnaire was placed on the Council's Consultation Hub between 24th March – 5th May 2014, seeking a consensus of opinion on various parking and traffic related issues.

One of the findings of the questionnaire was that there was support to upgrade and increase the capacity of beach front car parks including that of Tantallon Terrace/ Haugh Road.

Following on from this consultation exercise the Council's Depute Chief Executive, Partnerships and Community Services recommended in his report to Cabinet of 10 March 2015 on the 'North Berwick Parking Strategy Update' that Cabinet approve a 3 year strategy to amend or make the necessary Traffic Orders to purchase the requisite land, to obtain the necessary consents and to construct new car park provision as detailed in Appendix 1 of his Report. This includes the upgrade and increase in capacity of the sewage works car park at Tantallon Terrace/ Haugh Road. Furthermore the introduction of a Traffic Regulation Order (TRO) to ban overnight parking following an 18 month experimental order to establish the effectiveness and operational practicalities of the Order. These recommendations were approved by Cabinet on 10th March 2015.

Notwithstanding the consideration of the Council's accepted position that there is a lack of off street parking provision in North Berwick and Cabinet's decision to pursue additional parking improvements including, potentially, the provision of additional parking as an extension to Tantallon Terrace car park, the principal determining factor in this case is whether, the proposed development is acceptable having regard to national, strategic and local planning policy and guidance and other material considerations.

The Council's Transportation Planning Officer raises no objection to the application. However in responding to matters raised concerning general transport impact and the provision of additional parking, he advises that that proposals the subject of this application have been made to address a lack of parking provision. In adding much needed parking provision it is considered that the car park will off-set indiscriminate on-street parking within the area.

The Council's Transportation Planning officer is satisfied that the proposals will not have any adverse consequences for road safety, the capacity of the surrounding road network to deal with traffic unrelated to the development and thus residential amenity as a result of motorised traffic. On these considerations the proposals do not conflict with Policy T2 of the adopted East Lothian Local Plan 2008.

On the provision of publicly available short stay car parking the Councils Transportation Planning Officer is satisfied that the proposals will contribute to the vitality and viability of the town centre and on these considerations do not conflict with Policy T5 of the adopted East Lothian Local Plan 2008.

The applicant has submitted a design statement in support of this application. In it they advise that to improve the capacity of the car park an area of open space currently occupied by a picnic area would be used. The increase in the extent of the car parking at this location would extend beyond the Mean High Water Spring so as not to encroach on the SSSI to the north of the site. The existing stone wall to the south of the site would be demolished. Post and chain fencing was selected to improve visibility from the car park and to be more in keeping with its location.

In changing the use of the existing grassed area of open space to form car parking it is proposed to demolish the low stone wall that encloses the south boundary of it to allow for vehicular access. The new car parking area would be surfaced in asphalt and would have laid out on it 15 parking spaces, one of which would be for a disabled user. In occupying an existing area of grassed land the proposed new car parking area would not occupy the full width of the beach.

Policy DC1 (Development in the Countryside and undeveloped Coast) of the adopted East Lothian Local Plan 2008 states that development, including changes of use, will be acceptable in principle within the countryside and undeveloped coast where it is of an appropriate scale and character for its proposed location, it can be suitably serviced and accessed and there are no significant traffic or other environmental impacts. Part 5 of Policy DC1 requires that, in all cases, development should be compatible with its surroundings, minimise landscape impact, have no significant adverse impact on nearby uses, minimise the loss of prime agricultural land and that suitable access and infrastructure is or can be made available.

Policy DP2 of the adopted East Lothian Local Plan 2008, amongst other things, requires that all new development must be well designed and integrated into its surroundings.

The proposed area of grassed land to be changed in use to car parking occupies a prominent coastal location. It forms part of an existing picnic area. The proposed car parking area would be visible in approaches to it from Tantallon Terrace to the west and in pedestrian approaches from Tantallon Caravan Park to the southeast. It would also be visible, when occupied, in long distance views from Marine Parade to the west. It would also be visible from the beach and thus from the area of public open space to the north of it.

The proposed new car parking area would be seen in relation to the size and massing of the existing car park. They would rationalise the form and functionality of the car park. It would not be unduly prominent and would not appear harmfully intrusive, incongruous or exposed in its coastal landscape setting. Due to its extent, form and appearance and the functional appropriateness of its positioning alongside the existing car park, it would not harm the character and appearance of the landscape of the area.

On these considerations the proposals do not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) or with Policy DP2 of the adopted East Lothian Local Plan 2008.

Policy C3 of the adopted East Lothian Local Plan 2008 states that recreational, leisure and amenity open space and facilities which make a significant contribution to the recreational needs of the community or the amenity or landscape setting of an area will

be retained in use as such. Alternative uses will only be considered where there is no significant loss of amenity or impact on the landscape setting and; (i) the loss of part of the land would not affect its recreational, amenity or landscape potential, or (ii) alternative provision of equal community benefit and accessibility would be made available, or (iii) provision is clearly in excess of existing and predicted requirements.

The area of grassed open space to be changed in use to form the new car parking area is only a very small part of the much larger area of public open space comprising Milsey Bay. Due to the extent of the land that would remain as public open space the loss of a small part of the existing grassed open space, in its position close to the existing car park would not compromise the landscape setting or recreational, leisure or amenity potential of the much larger area of recreational, leisure and amenity open space that surrounds it. Nor would it set a precedent of other changes of use to the remaining larger area of recreational, leisure and amenity open space.

Accordingly, the proposed change of use would not conflict with Policy C3 of the adopted East Lothian Local Plan 2008.

With regard to international, national and locally designated areas and sites Paragraph 202 of Scottish Planning Policy: June 2014 states that 'The siting design of development should take account of local landscape character. Development Management decisions should take account of potential effects on landscapes and the natural and water environment, including cumulative effects. Developers should seek to minimise adverse impacts through careful planning and design, considering the services that the natural environment is providing and maximising the potential for enhancement.

Paragraph 203 of Scottish Planning Policy states that planning permission should be refused where the nature or scale of proposed development would have an unacceptable impact on the natural environment. Direct or indirect effects on statutorily protected sites will be an important consideration, but designation does not impose an automatic prohibition on development.

Paragraph 204 of Scottish Planning Policy states that Planning Authorities should apply a precautionary principle where the impacts of a proposed development on nationally or internationally significant landscape or natural heritage resources are uncertain but there is sound evidence that significant irreversible damage could occur. The precautionary principle should not be used to impede development without justification. If there is any likelihood that significant irreversible damage could occur, modifications to the proposal to eliminate the risk of such damage should be considered. If there is uncertainty, the potential for research, surveys or assessments to remove or reduce uncertainty should be considered.

With regard to international designations, paragraph 207 of Scottish Planning Policy states that sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) make up the Natura 2000 Network of protected areas. Any development proposal likely to have a significant effect on these sites which is not directly connected with or necessary to their conservation management must be subject to an "appropriate assessment" of the implications for the conservation objectives. Such plans or proposals may only be approved if the competent authority has ascertained by means of an "appropriate assessment" that there will be no adverse effect on the integrity of the site.

Policy NH1a of the adopted East Lothian Local Plan 2008 stipulates that development which would have an adverse effect on the conservation interest of a Natura 2000 area (including proposed Special Protection Areas or Special Areas of Conservation) or a

Ramsar site will only be permitted in the following circumstances, (i) there are no alternative solutions, and (ii) there are imperative reasons of over-riding public interest, including those of a social or economic nature.

Policy NH1b of the adopted East Lothian Local Plan 2008 stipulates that development affecting SSSI's will only be permitted where it can be demonstrated that; (a) the objectives of designation and overall integrity of the site will not be compromised; or (b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, economic or environmental benefits of national importance; and (c) there are no alternative solutions.

Policy DP13 of the adopted East Lothian Local Plan 2008 generally presumes against new development that would have an unacceptable impact on the biodiversity of an area.

The application site lies immediately to the south of the Firth of Forth Site of Special Scientific Interest (SSSI) and the Firth of Forth Special Protection Area (SPA). Scottish Natural Heritage (SNH) advises that these designations are in place to protect the nationally important geology (SSSI) and nationally and internationally important bird population (SSSI/ SPA) of the Firth of Forth.

SNH recognise there will be no land take from within the SSSI/ SPA of the Firth of Forth. However, they consider it likely that machinery required in the construction of the new car parking area may require access to the SSSI or materials may be temporarily stored there. They advise that the SSSI in this location serves to protect the nationally important geological feature: Carboniferous – Permian Igneous Stratigraphy and any exposed bedrock around the application site will form part of this geological feature. They therefore recommend a condition be imposed on a grant of planning permission to safeguard this geological feature and any exposed bedrock during construction from damage from machinery and the storage of materials.

To avoid damage to the SSSI, SNH recommend a condition be imposed on a grant of planning permission that the beach habitat be restored through the removal of construction materials and the reinstatement of any excavated areas.

These matters can competently be controlled by conditions of a grant of planning permission.

SNH advise that the proposals could affect the Firth of Forth SPA which is also notified as a Ramsar Site. The qualifying species of the Firth of Forth SPA are identified as wintering and passage birds (waders and wildfowl) that are known to use the area. These birds feed on the intertidal sands and mudflats (waders) and inshore waters (seaducks, grebes and divers) and also roost above the high tide line. SNH further advise that the potential effects on these species include disturbance and displacement during the construction works. In accordance with the Conservation (Natural Habitats, &c.) Regulations 1994, more commonly known as the 'Habitat Regulations', they recommend the Council undertake an appropriate assessment to ascertain the impacts of the development on the qualifying interests of the Firth of Forth SPA.

Regulation 48(2) of the Habitats Regulations states that the applicant shall provide such information as the Council may reasonably require for the purposes of the assessment.

In support of this application and in response to the recommendation made by Scottish Natural Heritage, an Appropriate Assessment has been undertaken by the Council. It has been undertaken in consultation with SNH. The Appropriate Assessment informs that SNH identified the potential for birds to be displaced or disturbed by the construction

or alteration of the car park. It advises that the Council agrees with this conclusion of 'likely significant effect'. The Appropriate Assessment has been carried out to determine whether displacement or disturbance will affect the integrity of the Firth of Forth Special Protection Area (SPA).

The Appropriate Assessment advises that a number of possible impacts on the SPA were considered by SNH, including;

1. Disturbance and/ or displacement of species during construction work;
2. Impacts on habitats within the SPA;
3. Impacts on the structure and function of the ecological processes in the SPA AND;
4. The potential for species to be lost from the SPA.

Of these impacts, only the first impact was considered to have a 'likely significant effect' on the SPA. Since the proposal to the site is immediately adjacent to the SPA boundary there is the potential for construction work to disturb or displace roosting waders or wildfowl.

With respect to the effect of the disturbance/ displacement on the integrity of the SPA the Appropriate Assessment identifies a number of local factors that influence the extent to which disturbance or displacement is a significant issue:

1. Construction activity will be of short duration, i.e. up to a few weeks only;
2. The construction site covers only a small area only, and disturbance will affect an extremely small fraction of the SPA;
3. The application site is already subject to background levels of disturbance due to its location on a popular recreational beach within a settlement and;
4. There are extensive areas of similar habitat in the vicinity of the application site.

The conclusions of the Appropriate Assessment are that due to the short duration of the construction work disturbance will not be a permanent feature of the site. Any disturbed or displaced birds could make use of other areas of the SPA during the construction period. It is therefore considered that there will be no adverse effects on the integrity of the SPA.

The Council's Biodiversity Officer advises that the proposed car park extension would cause the loss of a relatively small area of coastal grassland. Habitat impacts would be small and landscaping of the extended car park would provide an attractive coastal setting and wildlife resource. He therefore raises no objection to the application being satisfied the proposals would not impact on coastal habitats adjacent to the Firth of Forth SSSI and SPA.

The Appropriate Assessment has identified that the proposals would not have any adverse effect on the conservation interests of the SPA. Subject to the aforementioned controls to safeguard the Firth of Forth SSSI the proposals would not compromise the objectives or designation and overall integrity of the SSSI. Accordingly, the proposals do not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies NH1a, NH1b and DP13 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: June 2014.

Subject to the aforementioned controls to safeguard the Firth of Forth SSSI the proposals do not conflict with Policies NH1a, NH1b and DP13 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: June 2014.

The Scottish Environment Protection Agency (SEPA) advises the site lies within the

0.5% annual probability floor extent of the SEPA Flood map and is potentially at medium likelihood of coastal flooding. The predicted 0.5% annual probability flood level in the vicinity of the site is 3.9m AOD based at extreme still water level calculations using Coastal Flood Boundary Method. This does not take account of the potential effects of climate change and wave action and as such the risk could be greater than this.

They further advise that the extension to the car park is considered low sensitivity and given the flood risk is only coastal, there is unlikely to be any impact on flood risk elsewhere as a result of the development. They therefore raise no objection to the application on flood risk grounds. They do however recommend that given the potential to be exposed to large waves that warning signs be erected to advise car park users of the potential rise of wave overtopping during storm events. This matter can reasonably be imposed on a condition of a grant of planning permission.

Subject to the aforementioned control the proposals are consistent with Policy DP16 of the adopted East Lothian Local Plan 2008.

CONDITIONS:

- 1 Prior to use being made of the car park as it is hereby approved to be extended and altered, warning signs shall be erected within the car park to alert users of it of the potential for exposure to large waves. Details of the form and positioning of the warning signage shall be submitted for the approval of the Planning Authority prior to it being displayed. Once displayed the signage shall remain in place and shall accord with the details approved of it, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of public safety.

- 2 No development shall take place until there has been submitted to and approved in writing by the Planning Authority details of the location and method of the storage of construction materials and machinery to be used during the construction phase. The details shall include the methods for protection of bedrock during construction. The means of storage of materials and machinery, the location for them and the method for protection of bed rock shall accord with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To safeguard exposed bedrock that is an important geological feature of the Firth of Forth Site of Special Scientific Interest.

- 3 Prior to use being made of the car park as it is hereby approved to be extended and altered, or the completion of the development, whichever is the sooner, the beach habitat shall be restored through the removal of stored construction materials and machinery and any areas of beach excavated to facilitate the development shall be reinstated.

Reason:

To safeguard the Firth of Forth Site of Special Scientific Interest and Special Protection Area.

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

*[*Pages 165 - 166 of the public document pack]*

REPORT TO: Planning Committee

MEETING DATE: Tuesday 19 April 2016

BY: Depute Chief Executive (Partnership and Services for Communities)

SUBJECT: Application for Planning Permission for Consideration

8

Application No. **15/00966/AMM**

Proposal Approval of matters specified in conditions of planning permission in principle 14/00632/PPM - Erection of 120 houses, 20 flats and associated works

Location **Ferrygate Farm
Dirleton Road
North Berwick
East Lothian
EH39 5DJ**

Applicant Miller Homes

Per HolderPlanning

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

Although this application is for the approval of matters specified in conditions of planning permission in principle 14/00632/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the number of dwellings detailed is greater than 50. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

This application relates to some 7.6 hectares of agricultural land located immediately to the west of North Berwick. It has a broadly rectangular footprint and forms part of a larger field.

The site is bounded to the north by a length of Dirleton Road (the A198 road), a petrol filling station and garage, a small landscaped area and a number of houses. It is bounded to the east by a single track lane, known as Gasworks Lane, and beyond by

houses and gardens and by agricultural land. It is bounded to the south by agricultural land and to the west by a tree belt, beyond which is agricultural land.

In July 2014 planning permission in principle 14/00632/PPM was sought for a residential development of the application site. In December 2014 planning permission in principle 14/00632/PPM was refused by East Lothian Council. An appeal (Ref: PPA-210-2047) against that decision was subsequently made to the Scottish Government's Directorate for Planning and Environmental Appeals. In November 2015, following the conclusion of a legal agreement to secure education, school crossing patrol and affordable housing contributions, the appeal was allowed and planning permission in principle 14/00632/PPM was granted.

Approval of matters specified in conditions of planning permission in principle 14/00632/PPM is now sought for the erection of 120 houses, 20 flats and associated works on the application site.

Of the 120 houses, 99 would be detached, 8 semi-detached and 13 terraced. In terms of size, 15 of the proposed 120 houses would contain 2 bedrooms, 11 would contain 3 bedrooms, 59 would contain 4 bedrooms, and 35 would contain 5 bedrooms. The flats would each contain 1 bedroom.

The submitted details also include for the internal access roads, parking courts, landscaped open space, a play area and structural planting.

Vehicular access to the 120 houses and 20 flats would be taken from Dirleton Road by way of a new access junction to be formed some 30 metres to the west of the petrol filling station and garage on Dirleton Road.

A new area of woodland would be planted along the western edge of the site, which, together with the existing woodland belt immediately to the west of the site, would create a woodland strip with its width varying between 12 metres and 35 metres. An area of public open space, which would contain an equipped play area, would be formed centrally within the site. A SUDS shallow meadow basin would be formed within the northwest part of the site.

The application is supported by a Design Statement. The Statement sets out the design principles and concepts that have been applied to the development. It also provides a summary of how the conditions of planning permission in principle 14/00632/PPM have been met.

Subsequent to the registration of this application, further drawings have been submitted showing i) revised proposals for the proposed play area; ii) revised details for the house proposed for plot 105; iii) revised landscape proposals; and iv) further details of the remote footpath that would provide a pedestrian link between the site and the existing public footway network on Williamstone Court. Additionally a Tree Survey, a tree protection plan, and further drainage information have been submitted.

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 08 May 2012 the Council issued a formal screening opinion to the agent for the applicant. The screening opinion concludes that it is East Lothian Council's view that a housing

development of the site 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. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed housing development to be the subject of an EIA.

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

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

Relevant to the determination of the application is Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies H1 (Housing Quality and Design), DP1 (Landscape and Streetscape Character), DP2 (Design), DP12 (Trees on or Adjacent to Development Sites), C1 (Minimum Open Space Standard for new General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), T2 (General Transport Impact), DP20 (Pedestrians and Cyclists), DP22 (Private Parking) and DP24 (Home Zones) of the adopted East Lothian Local Plan 2008.

A material consideration 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 more 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 this application is the Scottish Government Policy Statement entitled "Designing Streets". It provides an overview of creating places, with street design as a key consideration. It advises on the detail of how to approach the creation of well-designed streets and describes the processes which should be followed in order to achieve the best outcomes.

Five written representations have been received in respect of this application, one of which raises objection to the proposed development. The other four representations do not state whether they support or object to the proposals. One of the written representations is submitted on behalf of the Westerdunes Park Proprietors Association.

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

The main grounds of objection are summarised as follows:

- * Proposed development falls outwith the current Development Plan; and
- * Impact on services and infrastructure within North Berwick;

The main issues raised in the four written representations are summarised as follows:

- * The boundary planting proposals are unsatisfactory and could shade out the objector's garden and photo-voltaic panels;

- * Loss of private view;
- * Reduction in the value of the objector's property;
- * Significant loss of privacy through overlooking and loss of daylight;
- * Significant light pollution;
- * Existing residents will be subject to considerable noise and disturbance during the construction period;
- * Increased risk of flooding;
- * Objector's hedge should be retained; and
- * A physical traffic calming measure, such as a roundabout or traffic lights, should be installed at the new site access in order to reduce the speed of vehicles heading westwards along Dirleton Road.

Additionally the Westerdunes Park Proprietors Association request that their concerns regarding potential flooding of the Eel Burn, which runs through the estate and under several properties, as a consequence of surface drainage from the proposed development be considered as part of the determination of this application.

The grounds of objection concerning loss of private view and reduction in the value of the objector's property are not material considerations in the determination of a planning application.

North Berwick Community Council, a consultee, do not object to the detailed proposals. They do however raise concern over the boundary planting proposals and the possible shading of existing gardens that may result. As the speed of cars coming along Dirleton Road is significant, the Community Council advise that the safe traffic egress from the new housing entrance could be assisted if this junction was in a 30 miles per hour zone.

Notwithstanding the concern of the objector, by the grant of planning permission in principle 14/00632/PPM, approval has been given for the principle of the erection of 140 residential units on the application site. There can therefore be no objection in principle to the erection of the 140 residential units now proposed.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development and the landscaping of and means of access to the site. In this regard the detailed proposals have to be considered against relevant development plan policy and the illustrative masterplan and conditions attached to planning permission in principle 14/00632/PPM.

The proposed residential development would form an extension to the western edge of North Berwick and would not be out of keeping with the character of the settlement and local area.

Paragraph 2.6 of the "Design Standards for New Housing Areas", approved by the Council on 10th March 2008, states that new housing development must create a hierarchical, permeable and interconnected street layout that complements and should extend the surrounding street pattern. Such layouts spread vehicle traffic evenly through

a site and to the surroundings, help prevent localised traffic congestion, and encourage walking and cycling. Proposed street layouts must maximise connections within the site and to surrounding streets, and ensure the movement requirements of the development strategy are met. By the design and arrangement of street types, street layouts must influence vehicle drivers preferred route choice to ensure the tertiary streets between residential blocks are less busy. In paragraph 2.9 it is stated that Home Zones must be introduced to new development as part of a hierarchical, permeable and interconnected street layout.

The houses and associated areas of ground, in their proposed groupings, orientations, and layout would be consistent with the principles of 'Home Zones' as set out in the Council's Design Standards for New Housing Areas and with the Scottish Government Policy Statement entitled "Designing Streets". The proposed layout of roads, pathways and parking spaces would also generally be consistent with those principles.

The details now submitted for approval are for a scheme of development comprising a mix of detached, semi-detached and terraced houses (14 types of residential units) and 20 flats, with all of the flats and houses being two storeys in height. The houses and flats would be finished predominantly with rendered walls and their pitched roofs would be clad with either pantiles or dark grey concrete tiles.

The proposed mix of house types is broadly consistent with the mix of house types indicatively shown on the illustrative masterplan docketed to planning permission in principle 14/00632/PPM. The proposed houses and flats, due to their positioning on the application site and by virtue of their height, size and scale, and architectural design would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. In this respect, the design of the house proposed for plot 105, that being the plot closest to the site access from Dirlerton Road, has been amended following concerns raised by planning officers. The amendments, which consist of a hipped roof instead of a gabled roof and the addition of four windows in the north facing side elevation of the house, would reduce the visual impact of the house and add visual interest to the development. The other components of the proposed development would not be harmful to the character and appearance of the area.

The proposed housing development would provide an attractive residential environment for future residents of the proposed houses and flats. The houses and flats 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 and flats an appropriate level of privacy and residential amenity. Notwithstanding this, it is proposed to enclose some of the rear boundaries by a 1.2 metres high fence or wall. This would not be high enough to provide sufficient privacy to occupants of the proposed residential units. Such boundaries should be amended to 1.8 metres in height. This can be secured by the imposition of a condition of the approval of matters specified in conditions for the proposed housing development.

The application site is capable of accommodating all of the houses and flats without being an overdevelopment of the site and without being incompatible with the density of existing housing development in the area.

The proposed development has been amended in light of comments received from the Council's Landscape Project Officer. The revised proposals have:

* Omitted the proposed hedge to the east side of the entrance road and added some feature trees to the open space to the east of the entrance to include 2 Beech trees, 1 Holm oak tree and 1 Scots pine tree;

- * Relocated the southern boundary fence line to the north side of the hedge line, amended the hedge to be a mixed native hedge and located the trees within the hedge line;
- * Added 2 street trees within the street that runs north to south to the western end of the development and 2 trees within the southernmost street;
- * Amended the street tree species to be a mix of *Acer campestre* 'Elsrijk' and *Carpinus betulus* 'Frans Fontaine', with the row of Horse Chestnuts to the frontage of the houses to the east side of the central open space changed to *Carpinus betulus* 'Frans Fontaine';
- * Included additional species of large trees within the open space that runs north to south through the centre of the site;
- * Amended the species of trees within the orchard to include apples, plums and pear trees;
- * Omitted the tree planting previously proposed to the south of the houses on Dirleton Road;
- * Included whin dust paths through the woodland to the west of the site;
- * Had a tree survey carried out for the mature trees at Wild Acre which are protected by Tree Preservation Order number 39, which has accurately plotted these trees and identified their root protection areas in accordance with BS5837:2012 'Trees in relation to design, demolition and construction'.

The Landscape Project Officer raises no objection to the details of the development now proposed, being satisfied that her earlier comments have been fully addressed. She does however recommend that measures are put in place to protect existing trees during the construction period. This can be secured by the imposition of a condition of the approval of matters specified in conditions for the proposed housing development.

The Council's Environmental Protection Manager raises no objection to the proposed development, being satisfied that the occupants of the proposed residential units would benefit from a satisfactory level of privacy and residential amenity. He does not raise concerns that existing residents would be subject to significant light pollution, as one of the representors suggests.

The matter of noise and disturbance during the construction period was considered in the determination of previous application 14/00632/PPM. Condition 8 of planning permission in principle 14/00632/PPM requires that a Construction Method Statement to minimise the impact of construction activity on the amenity of the area should be submitted to and approved by the Planning Authority prior to the commencement of development. The statement should recommend mitigation measures to control noise, dust, construction traffic and should include hours of construction work.

On all of these foregoing findings on matters of design, layout, landscaping and amenity, and subject to the imposition of conditions, the proposed development is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies H1, DP1, DP2 and DP24 of the adopted East Lothian Local Plan 2008, the Council's Design Standards for New Housing Areas and the Scottish Government Policy Statement entitled "Designing Streets".

The proposed site layout now includes a centrally located area of open space, consistent with the illustrative masterplan docketed to planning permission in principle 14/00632/PPM. The Council's Principal Amenity Officer is satisfied with both the size and location of the proposed area of open space. On this consideration the proposed development is consistent with Policy C1 of the adopted East Lothian Local Plan 2008.

The area of open space would contain an equipped play area. The proposed size and location of the play area is consistent with the illustrative masterplan docketed to planning permission in principle 14/00632/PPM. Details of the play equipment proposed for the play area were submitted with this application. The Council's Principal Amenity Officer originally raised concerns regarding the proposed equipment, which he considered would be limited in range and not challenging for children between 8 and 12 years of age. The proposed play equipment has subsequently been amended to take into account the concerns of the Principal Amenity Officer. He is now satisfied with the range of equipment proposed and advises that it will provide a reasonable challenge for older children. On this consideration the proposed development is consistent with Policy C2 of the adopted East Lothian Local Plan 2008.

The principles of the means of accessing of the proposed housing are already decided by the grant of planning permission in principle illustrative masterplan docketed to planning permission in principle 14/00632/PPM. These are that vehicular access to the site should be taken from Dirleton Road via a new access to be formed some 30 metres to the west of the petrol filling station and garage on Dirleton Road.

The submitted details for accessing the proposed 140 residential units are in accordance with these principles established by the grant of planning permission in principle 14/00632/PPM. In this regard, it is worth noting that the Reporter appointed to determine the appeal did not consider that it was necessary for the site access with Dirleton Road to include a physical traffic calming measure, such as a roundabout or traffic lights.

The Council's Road Services raise no objection to the submitted details, being satisfied that the proposed development would not result in unacceptable traffic congestion, including on Dirleton Road. They advise that the proposed means of access and amount and location of parking within the site are all acceptable, although they do make recommendations on the standards of provision.

They recommend that:

- (i) vehicle access's to private parking areas (i.e. other than driveways) should be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;
- (ii) cycle parking should be included at a rate of 1 space per flat. The parking should be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed; and
- (iii) wheel washing facilities are provided during the construction phase of the housing development.

All of these requirements can reasonably be made conditions of the approval of matters specified in conditions for the proposed housing development.

Condition 3f(ii) of planning permission in principle 14/00632/PPM requires the provision of a remote footpath leading to Williamstone Court to connect into the existing public footway network on Williamstone Court. Consistent with the requirements of condition 3f

(ii), such a remote footpath has been proposed. The remote footpath is to be of an adoptable standard with street lighting provided.

On these foregoing transportation and other access considerations the proposed residential development is consistent with Policies T2, DP20 and DP22 of the adopted East Lothian Local Plan 2008.

The Council's Waste Services Manager raises no objection to the details of the 140 residential units now proposed, advising that the proposed flats should be allocated communal containers. A copy of his consultation response has been forwarded onto the applicant for their information.

The mechanism of a financial contribution towards additional educational provision in North Berwick for a housing development of 140 residential units has already been secured through the grant of planning permission in principle 14/00632/PPM.

The mechanism of the provision within the residential development of 25% affordable housing (i.e. 35 units of the proposed 140 units) is already secured through the grant of planning permission in principle 14/00632/PPM.

The Council's Housing Strategy and Development service raise no objection to the details of the 140 residential units now proposed.

Scottish Water were consulted on the planning application but have not commented on it.

The matter of site drainage was considered through the determination of previous application 14/00632/PPM. Condition 10 requires that details of the proposed integrated sustainable urban drainage scheme (SUDS) for the site should be submitted in writing for the approval of the Planning Authority, following consultation with SEPA. Details of the proposed integrated sustainable urban drainage scheme (SUDS) for the site have not been submitted with the application. Instead, the applicant advises in their Design Statement that details of the SUDS scheme are to be prepared, following consultation with SEPA, by the project engineers for the approval of the Planning Authority.

The Council's Team Manager for Structures, Flooding & Street Lighting raises no objection to the proposals, being satisfied that details of the proposed integrated sustainable urban drainage scheme (SUDS) are to be submitted to and approved by the Planning Authority in writing. He further advises that, the revised preliminary drainage layout drawing (Drawing No. E10578-2001A) shows the SUDS pond outfall draining to a soakaway on the site and not to the Eel Burn. This, he advises, should address the concerns of the Westerdunes Park Proprietors Association.

The Scottish Environment Protection Agency raise no objection to the details of the 140 units now proposed, although they recommend that the discharge of surface water to the water environment should be in accordance with the principles of the SUDS Manual (C753) published by CIRIA. This can reasonably be made a condition of the approval of matters specified in conditions for the proposed housing development.

RECOMMENDATION

That approval of matters specified in conditions for the proposed housing development be granted subject to the following conditions:

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

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

- 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 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. 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.

- 3 Notwithstanding that shown on the drawings docketed to this approval, the boundary enclosures shown on those drawings are not hereby approved. Instead, and prior to the commencement of development, revised details of all boundary enclosures to be erected on the application site, and the timescales for their provision, shall be submitted to and approved in advance by the Planning Authority. Those details shall show 1.8 metre high enclosures around rear gardens of the houses hereby approved.

Development shall thereafter be carried out in full accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of the boundary enclosures in the interest of safeguarding the visual amenity of the area and to safeguard the privacy and amenity of residential properties nearby.

- 4 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.

- 5 Prior to the commencement of development, details showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

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

(ii) cycle parking shall be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed;

The residential development shall thereafter be carried out in accordance with the details so approved.

Reasons:

In the interests of road and pedestrian safety.

- 6 The discharge of surface water to the water environment shall be in accordance with the principles of the SUDS Manual (C753) published by CIRIA.

Reason:

In the interests of the local water environment.

- 7 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction" and as detailed on drawing 'Tree Protection Plan' numbered '1842/07' has been installed, approved and confirmed in writing by the Planning Authority. The fencing must be fixed in situ, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing must be as indicated on the drawing 'Tree Protection Plan' numbered '1842/07', shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and approved in writing by the Planning Authority.

All weather notices shall be erected on said fencing with words such as "Construction exclusion zone - Keep out". 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 shall be stored and handled well away from the outer edge of its RPA. 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 of existing trees, in the interests of the visual amenity of the area.

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

*[*Pages 177 - 178 of the public document pack]*

REPORT TO: Planning Committee

MEETING DATE: Tuesday 19 April 2016

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

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Note - this application was called off the Scheme of Delegation List by Councillor Goodfellow for the following reason: The premises concerned has lain empty for some time and our decision that retail use of the premises is still viable should be decided at Committee.

This application was also called off the Scheme of Delegation List by Councillor Berry for the following reason: This is a change of use to a hot food takeaway in an area already supplied by two already. Local residents have expressed concern about its impact, especially in a narrow High St (for noise) and with no space on narrow pavements.

Application No. **15/00916/P**

Proposal Change of use of shop (class 1) and area for preparation of food for distributing off premises to hot food takeaway and installation of extract duct

Location **5 High Street
North Berwick
East Lothian
EH39 4HH**

Applicant Mr Franco Cucchi

Per Somner Macdonald Architects

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

Planning permission is sought for the change of use of the currently vacant ground floor premises of 5 High Street, North Berwick. The existing use of the premises is as a shop, a use within Class 1 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 with an associated area for the preparation of food off the premises. The proposal is to change the use of the premises to a hot food takeaway, a sui generis use. Planning permission is also sought for the installation of an extract duct on rear elevation of the building that contains the premises.

The premises occupy the ground floor of a three-storey building that is situated on the south side of High Street. The upper floors of the building contain a residential flat. The premises are part of a well established commercial ground floor frontage along the south

side of High Street. By being within North Berwick Town Centre the premises are within a mixed use area as defined by Policy ENV2 of the adopted East Lothian Local Plan 2008. The premises are also within the North Berwick Conservation Area. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

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

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV2 (Town and Village Centres, Other Retail or Mixed Use Areas), ENV4 (Development Within Conservation Areas), R3 (Hot Food Outlets) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

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

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

Four written objections to the application have been received, one of which has four signatories. The objections are from local residents and proprietors. They are made on the grounds that:

- (i) An earlier application for the change of use of the shop at 1 High Street was turned down because of concerns about overcrowding in the street;
- (ii) if queues form outside the premises, people will be unable to pass safely on the pavement and could be forced into the road, particularly if they have baby buggies or wheelchairs;
- (iii) There is quite heavy traffic on High Street including delivery lorries and an accident is highly likely;
- (iv) Double yellow lines mark the road outside the premises and people park their illegally already - further traffic will worsen this situation and potentially limit access to neighbouring residential properties;
- (v) In its location the hot food takeaway would not ease congestion on footpaths but would increase activity on the highway;
- (vi) The previous use of the premises as a deli had pedestrian overflow problems;

(vii) As the pavement is narrow outside the premises, it is already difficult to walk past at that point as vehicles park on the double yellows;

(viii) Deliveries to and from the premises would not be possible without breaching parking restrictions;

(ix) Because of the narrowness of the pavement in front of the premises there is nowhere to store bins close to the premises; this is bound to lead to rubbish on both pavement and road which would detract from High Street, is unhygienic and would attract seagulls;

(x) There should be investment in the location for disposal and handling of waste;

(xi) The most recent use of the premises was as an energy shop and not Cater Ceilidh as advised in the supporting statement and any waste disposal would be significantly different from an office based use to a food preparation unit;

(xii) Cooking smells will seriously affect the outside space for a neighbouring residential property as well as the area in general;

(xiii) There are already two fish and chip/pizza carry out premises in the area in addition to a number of restaurants, cafes and pubs serving food; is there justification for a further takeaway?

(xiv) The proposal has the potential to devalue neighbouring residential property;

(xv) The application is not in the interests of residents on High Street or near the High Street. Nor is it in the interests of pedestrians or surrounding businesses; and

(xvi) The application is only within the interests of one business that already has a safer, larger pavement base.

As a consultee to the application North Berwick Community Council do not raise objection to the application. They do however raise concern with regard the height of the proposed extract duct. They are of the view that the design of the flue should minimise odour discharge.

In April 2006 planning application 06/00443/FUL was submitted for the change of use of the shop premises at 1 High Street, North Berwick to a licensed betting office. Associated listed building consent application 06/00443/LBC was also submitted for alterations to the building and for the display of signage all to facilitate its proposed new use. In June 2006 planning application 06/00443/FUL and listed building consent application 06/00443/LBC were withdrawn without having been determined. The reason for the withdrawal given by agent acting on behalf of the applicant for the applications was that the applicant had not been successful in securing the lease for the property and as such did not want to continue with the applications. Contrary to that alluded to by one of the objectors, the reason for the withdrawal of the applications was not therefore attributed to concern raised by the Planning Authority regarding the overcrowding or overspill of patrons from the premises onto High Street.

The effect of development on the value of neighbouring property is not a material consideration in the determination of a planning application.

Matters of refuse collection and littering are controllable under other legislation other than planning.

Policy ENV2 applies to North Berwick Town Centre, an area it defines as being of mixed uses and one in which uses appropriate to a town centre area will be acceptable in principle. These uses include retailing, business and office use, restaurants, and leisure and entertainment.

Policy ENV2 states that within town centres changes of use of retail units to other town centre uses will only be acceptable where the Council is satisfied that a retail use is no longer viable or the benefits of the proposed use to the viability and vitality of the area outweigh the loss of the shop.

The applicant's agent has submitted a supporting planning statement with this application, which provides some of the occupation history of the premises and a review of the proposed change of use and proposed extract duct installation against relevant development plan policy.

The statement informs that in the premises were occupied by Cater Ceilidh, a food sales business. During their occupation of the premises planning permission ref: P/00063/93 was granted on 15 April 1993 for the preparation and distribution of food for sale off the premises. The business operation is alleged to have included delicatessen sales on the premises and outside catering for functions for which food was cooked at the premises. The premises were subsequently occupied by Paprika, also a delicatessen.

In 1993 the premises subsequently fell vacant and were marketed by solicitor's Paris Steele.

It is alleged in the written statement that the combination of shop deli and outside catering uses continued from 1993 until the premises fell vacant. However there is evidence to suggest that the last know use of the premises was as a green energy shop. This evidence is in the form of signage currently displayed on the front of the vacant premises comprising the text "APA Green Energy Systems".

The supporting statement also advises that the premises of 5 High Street have been purchased by the applicant who is part of the family business operating the North Berwick Fry and Diner and Cucina Amore restaurant in Quality Street. The applicant is also the owner of the two storey flat of 5a High Street above the premises the subject of the proposed change of use.

The statement further informs that the applicant had observed the operation and use of the premises prior to them becoming vacant. It is alleged that when in operation as a food business the premises were operating as a hot food takeaway and this use was not challenged, reported or planning enforcement action taken.

There is no evidence to contradict these statements.

The statement informs that the proposed extract system would be an improvement to existing extractions arrangements and is similar in form to that already in place at the North Berwick Fry and Diner.

With regards the compliance of the proposal with Policy R3 of the adopted East Lothian Local Plan 2008 the statement advises that:

- (i) the premises are within a town centre and this is an established shopping location,
- (ii) there are several restaurants and hot food takeaways. The town centre is a busy visitor location with significant footfall of residents and tourists and the current standard of behaviour of visitors can be readily observed,

- (iii) The applicant operates existing food businesses in the area and is responding to consumer demand,
- (iv) The application includes details of the means of extraction of cooking smells to roof level. Therefore it is not anticipated that there will be harm to local amenity due to the operation of the proposed use, including the behaviour of customers out-with the premises.
- (v) It is not anticipated that the proposed use would present a threat to road safety.
- (vi) There are no external alterations proposed that would be harmful to the character and appearance of the building and,
- (vii) The applicant does not propose to operate out-with the hours stated in Policy R3 as being between 7.30am and 12 Midnight.

A further statement in the form of an email from the applicant's agent advises that the premises, following marketing by Paris Steele, were marketed privately by the then owner. The marketing of the premises was in the form of a "for sale" sign in the window of the premises. The length of time the premises were marketed in this way cannot be quantified but is considered to be more than 3 months. The previous owner confirmed that no offers were made for the property prior to interest being expressed by the applicant. Notwithstanding no offers were made for the premises other than by the applicant no details have been provided to demonstrate the level of interest in the premises.

The further written statement comments that Policy ENV2 states that changes of use of retail units to other town centre uses will only be acceptable where the Council is satisfied that a retail use is no longer viable or the benefits of the proposed use to the viability and vitality of the area outweigh the loss of the shop. Although in other parts of Policy ENV2 relating to other types of change of use, the wording is prescriptive in requiring that the premises be marketed, the only part of Policy ENV2 which relates to this type of change of use does not specify the means by which the Council has to be satisfied on this matter. Therefore whilst it is appreciated that a 3 month marketing campaign is the usual means of providing evidence, the wording of this clause of the policy leaves it open for the Council to be satisfied through consideration of other circumstances and means as suitable evidence.

Whilst the continued use of the ground floor premises of 5 High Street as a retail unit is the Council's preference it is acknowledged that a hot food takeaway use is an accepted town centre use, which might contribute positively to the viability and vitality of the area, but only if a retail use of the premises is proven to be no longer viable. In this regard, the method of marketing of the premises has not been sufficient to demonstrate that the retail use of the premises is no longer viable. The premises have not been marketed through formal marketing procedures and have not been exposed to a wide market.

In order to establish that a retail use is no longer viable it is the practice of the Council, as Planning Authority to apply the general rule that the premises should be formally marketed for a minimum period of 3 months. Whilst it is noted that a sign was in the window of the premises for a length of time alleged to be more than 3 months, the lack of exposure of the premises to a wider market is likely to impact upon the level of interest from prospective tenants. Premises are each unique in terms of their location, size and quality. Thus, it has not been demonstrated to the satisfaction of the Council that the retail use of the premises is no longer viable. Nor has it been demonstrated that the benefits to the viability and vitality of the area of the proposed use of the premises as a hot food takeaway outweigh the loss of the existing shop use.

Accordingly, the proposed change of use of the premises from a shop use (Class 1 use) to a hot food takeaway (Sui Generis use) is contrary to Policy ENV2 of the adopted East

Lothian Local Plan 2008.

Policy R3 of the adopted East Lothian Local Plan 2008 supports the provision of hot food takeaways in local shopping and commercial areas subject to the criteria of the Policy being met.

One of the criterion of Policy R3 is for it to be demonstrated that the operation of a proposed hot food takeaway use would not cause harm to local amenity and that, in this consideration, the cumulative effect of additional premises in locations already containing one or more hot food takeaways in close proximity will be relevant.

It is acknowledged that there are already other hot food takeaways in North Berwick Town Centre. However, in their locations they are generally dispersed from one another. In the consideration of this application no consultation response or public representation provides evidence that approval of the proposed hot food takeaway use would, due to the location of the premises in the town centre and of the existing number of hot food takeaways, result in a cumulative effect of hot food takeaway use harmful to town centre amenity.

The Council's Environmental Health Service has raised concerns that noise associated with the operation of the proposed extract duct could result in a loss of amenity to occupiers of neighbouring residential properties. Accordingly they recommend that:

(i) The Rating Level, LArTr, of noise emanating from the proposed extract duct, including noise from any associated plant or machinery, (when measured 3.5m from the façade of any neighbouring residential property) shall be no more than 5dB (A) above the background noise level, LA90T. All measurements to be made in accordance with BS 4142: 2014 "Methods for rating and assessing industrial and commercial sound". The difference between the Rating Level and Background Level can be increased to 10dB where the noise source does not have a tonal element; and

(ii) Noise associated with the operation of the proposed extract duct, including noise from associated plant and/or equipment, shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any neighbouring residential property. All measurements to be made with windows open at least 50mm.

The above controls could reasonably be secured as conditions imposed on a grant of planning permission.

The Council's Environmental Health Service advises that as the proposed extract duct would vent above the height of the dormer on the rear elevation of the roof slope of the building, it would facilitate adequate dispersal of cooking odours from the premises.

It is the intention of the applicant to operate the proposed hot food takeaway within the hours of 7.30am and 12 Midnight. These hours are within those set out in Policy R3 of the adopted East Lothian Local Plan 2008. As so operated, the proposed hot food takeaway by its nature and scale of operation would not be harmful to the amenity of the neighbouring and nearby residential properties or of the wider area.

Accordingly, in respect of the above matters, the proposed hot food takeaway does not conflict with Policies ENV2 or R3 of the adopted East Lothian Local Plan 2008.

Another determining criterion of Local Plan Policy R3 is that a proposed hot food

takeaway use does not present a threat to road safety. It must therefore provide, or be close to, safe on or off street parking such that it will not encourage parking in locations which could present a hazard to pedestrians or other road users.

The Council's Road Services advise that High Street is a one-way street westbound. Parking regulations exist on a part of it from its junction with Quality Street to the east. The Traffic Regulation Order (TRO) in place is indicated by double yellow lines and these are located on the carriageway in front of the premises as well in front of other premises at the east end of High Street. The TRO is such that there is no waiting, loading or unloading permitted at any time at this location. Currently the enforcement of these controls is regulated by Police Scotland.

Road Services do not recommend refusal of the application. They do however raise concern that the proposed hot food takeaway will increase the likelihood of inconsiderate and obstructive parking at this location. They are of the view that whilst parking restrictions exist outside the premises, the short term nature of visits to hot food takeaways can lead to customers breaching these restrictions.

In that a Traffic Regulation Order is in place to control indiscriminate parking outside the premises and is enforceable under legislation other than planning it would be unreasonable for the Planning Authority to refuse the application on the grounds that the proposed use may increase the likelihood of illegal parking at this location.

With regard to loading outside the premises and deliveries to it, Road Services recommend that a delivery and service plan statement be submitted to ensure that deliveries to the premises are undertaken in a legal and responsible manner. This matter could reasonably be controlled by a condition of a grant of planning permission.

On the consideration of general transport impact the proposal does not conflict with Policies R3 and T2 of the adopted East Lothian Local Plan 2008.

The proposed extract duct is required to improve existing extraction arrangements within the premises. It would be attached to the south (rear) elevation of the building, on a part of the building that is enclosed by other tall buildings. It would extend upwards through the flat roof of the rear projecting ground floor component of the building and thus through a part of the rear roof terrace of 5a High Street. In so doing it would abut the rear elevation of the first floor part of the building and be positioned to the west side of the first floor door openings and second floor dormer window of the first floor flat. It would be cylindrical in form and in terminating above the roof of the dormer of the first floor flat, it would follow the slope of roof of the building over which a part of it would be affixed. It would be constructed of galvanised steel and would have a diameter of some 0.55 metres.

In its elevated position on the southeast elevation of the building the extract duct would not be visible in public views of the building from High Street to the north or from Quality Street from the east. The extract duct would be visible from the windows of nearby first and second floor properties. However, it would be viewed in the context of the other extract ducts/systems on the rear elevation of adjacent buildings and against the backdrop of the external wall of the building and the adjacent buildings. Thus, by virtue of its size, elevated position and its juxtaposition with the existing building, adjacent buildings and the other extract ducts/systems on the rear elevations of adjacent buildings the proposed extract duct would not appear harmfully intrusive, exposed or incongruous and would not detract from the character and appearance of the building or of this part of the Conservation Area.

The proposed extract duct is consistent with Policy 1B of the approved South East

Scotland Strategic Development Plan (SESplan) June 2013, Policies ENV4 and DP6 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: June 2014.

Notwithstanding that the erection of the proposed extract duct is consistent with policy, that Road Services do not recommend refusal of the proposed change of use of the premises and that the Council's Environmental Health Service is satisfied that odour and noise can be adequately controlled to prevent harm to the amenity of neighbouring residential uses, these material considerations do not sufficiently outweigh the findings of this planning assessment that the change of use of the premises to a hot food takeaway is contrary to Policy ENV2 of the adopted East Lothian Local Plan 2008 as it has not been demonstrated to the satisfaction of the Council as Planning Authority that the retail use of the premises is no longer viable, or that the benefits of the proposed hot food takeaway use to the viability and vitality of North Berwick Town Centre would outweigh the loss of the retail use of the premises.

REASON FOR REFUSAL:

- 1 The proposed change of use of the premises to a hot food takeaway (Sui Generis use) is contrary to Policy ENV2 of the adopted East Lothian Local Plan 2008 as it has not been demonstrated to the satisfaction of the Council as Planning Authority that the retail use of the premises is no longer viable, or that the benefits of the proposed use to the viability and vitality of the area would outweigh the loss of the retail use.

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

*[*Page 187 of the public document pack]*