

PLANNING COMMITTEE

7 JUNE 2016

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

**TUESDAY 19 APRIL 2016
CORN EXCHANGE, HADDINGTON**

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Committee Members Present:

Councillor N Hampshire (Convener)
Councillor D Berry
Provost L Broun-Lindsay
Councillor S Brown
Councillor S Currie
Councillor T Day
Councillor A Forrest
Councillor J Gillies
Councillor J Goodfellow
Councillor D Grant
Councillor W Innes
Councillor P MacKenzie
Councillor J McMillan
Councillor J McNeil
Councillor T Trotter
Councillor J Williamson

Council Officials Present:

Mr D Proudfoot, Head of Development
Mr I McFarlane, Service Manager - Planning
Ms M Ferguson, Service Manager – Legal and Procurement
Mr K Dingwall, Principal Planner
Mr M Greenshields, Transportation Planning Officer
Mr G Talac, Transportation Planning Officer
Mr D Irving, Senior Planner
Ms T Barson, Management System & Admin Officer
Ms C Molloy, Legal Team Leader
Ms J Mackay, Media Manager

Clerk:

Ms F Currie (Items 1 – 4)
Mrs F Stewart (Items 5 – 9)

Visitors Present:

Item 3 – Mr C Main, Mr M Park, Mr N Laird
Item 4 – Mr A Fleming, Mrs D Main, Mr R Kay, Mr T Drysdale
Item 5 – Mr M Richardson
Item 9 – Mr K Macdonald

Apologies:

Councillor J Caldwell

Councillor K McLeod

Declarations of Interest:

None

The Convenor invited Iain McFarlane, Service Manager - Planning, to advise Members of a proposed change to the published agenda.

Mr McFarlane advised that a late representation, received 4 days before the Committee meeting, had raised a number of issues relating to the Appropriate Assessments for planning applications 15/01022/PCL and 16/00023/PCL (Items 6 and 7 on the agenda). While he did not consider the assessments to be necessarily deficient, it was important that officers have the opportunity to consider the representations in detail. Mr McFarlane sought Members' agreement to defer consideration of these applications.

Councillor Currie expressed his disappointment at this proposal but given the level of public concern he acknowledged the importance of ensuring that all relevant matters had been addressed. He also requested that officers provide further visualisations for both sites.

The Committee agreed unanimously to defer consideration of planning applications 15/01022/PCL and 16/00023/PCL to a future meeting.

1. MINUTES FOR APPROVAL

The minutes of the meeting of the Planning Committee of 1 March 2016 were approved.

2. PLANNING APPLICATION NO. 16/00068/P: CONSTRUCTION OF AN ANAEROBIC DIGESTER PLANT, COMBINED HEAT AND POWER PLANT, ERECTION OF BUILDINGS, FORMATION OF VEHICULAR ACCESS AND ASSOCIATED WORKS ON LAND AT STANDALANE, NEAR BALLENCRIEFF, EAST LOTHIAN

A report was submitted in relation to Planning Application 16/00068/P. Daryth Irving, Senior Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent for the application. Mr Irving then advised Members that the applicant's agent had submitted a letter requesting some changes to the recommended conditions 3 and 5 in the report. He outlined the substance of these proposed changes - an amendment to condition 3 and the removal of condition 5 - and confirmed that neither the Council's Environmental Health Service nor SEPA had raised any objection.

In response to questions from Members, Mr Irving advised on the revised landscape plan, water extraction from the site and arrangements for on-site deliveries. He confirmed that any proposals for a change to delivery times, as outlined in the Travel Management Plan required by recommended condition 9, would require a further planning application.

Several Members raised concerns about the late submission of these proposed changes to the conditions and argued that the Committee should be allowed additional time to consider the implications of these changes before reaching a decision.

Mr McFarlane pointed out that the Members had the authority to amend any of the proposed conditions as part of their consideration of an application and that this did not necessarily preclude them from making a decision that day.

Councillor Currie moved that the application be continued to a future meeting to allow Members, officers and those who have made representation time to consider the applicant's suggested amendments to the proposed conditions.

Councillor Day seconded the motion.

The Convener moved to the vote on the motion:

For: 14

Against: 0

Abstentions: 2

Decision

The Committee agreed to continue the application to a future meeting.

3. PLANNING APPLICATION NO. 15/01035/P: CHANGE OF USE FROM PUB/RESTAURANT/MANAGER'S FLAT AND PUB GROUNDS TO FORM 1 HOUSE AND DOMESTIC GARDEN GROUND AT 2 RAVENSHEUGH ROAD, MUSSELBURGH

A report was submitted in relation to Planning Application 15/01035/P. Mr McFarlane presented the report, summarising the key points. The proposed decision set out in the report was to grant consent for the application.

The Convener referred Members to a written statement submitted by Councillor Caldwell prior to the meeting. In it Councillor Caldwell raised concerns about the current application and referred to a second, pending application for this site. He proposed the withdrawal of this application to allow both applications to be brought together to the Committee for consideration at a later date.

Mr McFarlane advised that, in his view, there was nothing to prevent this application being considered individually on its merits and that such a decision would not prejudice the Committee's consideration of any subsequent application for this site. Referring to Councillor Caldwell's concerns about the historic nature of the building, he confirmed that there would be no change to the west gable and the window of the former pub that had historically been used to serve golfers as a result of this application.

The Convener sought support for Councillor Caldwell's motion and, none being forthcoming, the motion fell.

Mr Craig Main of EMA Architecture & Design Ltd, agent for the applicant, acknowledged the public interest in this site and its historic nature. He indicated that previous owners had been unable to make it a viable business and there had been no interest in its sale as a pub/restaurant. Part of the property was already used as a residence and private garden and the application would secure the future of the building. He added that the present application did not preclude a future request for a change of use back to a pub/restaurant.

Mr Mungo Park spoke against the application. He urged refusal of the application as, in his view, it would remove Mrs Foreman's link with the golf course and threaten the historic nature of the site. He said that the gable end and boundary wall were important historical features and that the proposed conditions needed to be robust enough to withstand legal

challenge should the applicant choose to seek their alteration or removal. He added that there had been significant interest from abroad in preserving Mrs Foreman's as a historic site for golf tourism but as they had only lately become aware of the proposals for the site no firm offer of purchase had been made.

Mr Neil Laird spoke against the application. He advised Members that Mrs Foreman's had been confirmed as the oldest golf pub in the world and that it should be protected as a site of historic golfing interest. He indicated that the change of use would place a private residence close to the course and, without the existing protection, the Council could face financial liability for any damage sustained as a result. He said that the pub could be viable if properly run and that there was money available to maintain the property for 'the public good'.

Mr McFarlane clarified the position in relation to the retention of the hedge and boundary wall indicating that this was provided for under the recommended condition 3.

Local Member Councillor Currie said that he had considered the matter carefully and could find no planning reasons for the refusal of this application. He pointed out that the property had been for sale for almost 2 years without sign of a buyer and that the proposed conditions would safeguard the site's historic features. He would be supporting the application.

Local Member Councillor Forrest said that, while it was unfortunate that Mrs Foreman's had closed, it was important that the property should not be left empty and allowed to deteriorate. This proposal would ensure that the building was maintained. He would be supporting the application.

Local Member Councillor McNeil acknowledged the local and historical interest in the site and concerns regarding the retention of its historic features. However, he accepted that if the business was no longer viable a change of use was appropriate. He would be supporting the application.

Councillor McMillan welcomed the speakers' enthusiasm and said it was unfortunate that a viable business proposal had not come forward in time to prevent this application. He hoped that it may still be possible to explore this option, regardless of the Committee's decision, and for that reason he would abstain from the vote.

The Convener brought the discussion to a close. He observed that as no one had come forward with any alternative proposal for the site it would be wrong not to approve an application which would safeguard the future of the building. 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: 15
Against: 0
Abstentions: 1

Decision

The Committee agreed to grant planning permission subject to the following 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.

4. PLANNING APPLICATION NO. 15/00760/PPM: PLANNING PERMISSION IN PRINCIPLE FOR RESIDENTIAL DEVELOPMENT WITH ASSOCIATED INFRASTRUCTURE AND LANDSCAPING AT THE FORMER FIRE SERVICE TRAINING SCHOOL, GULLANE

A report was submitted in relation to Planning Application 15/00760/PPM. Mr Irving presented the report, summarising the key points. The report recommendation was to grant consent for the application.

Mr Irving, Mr McFarlane and Grant Talac, Transportation Planning Officer, responded to questions from Members on a variety of issues including arrangements for site access, drainage/flooding prevention proposals, the inclusion of business units and contributions for education and health services.

Councillor Goodfellow asked whether it would be competent to propose an amendment to condition 2(ii) to ensure delivery of 25% affordable housing on site. The Convener stated that justification would be required for such a change in policy. Instead, he gave a commitment that any proposal to deliver affordable housing off site would be referred to Council for a decision.

Mr Andrew Fleming of Barton Willmore, agent for the applicant, outlined the details of the application including the public consultations and rationale for settling on the proposed residential development. He indicated that the applicant had considered the importance of retaining Hamilton House and to the issues surrounding access, and had agreed to the assessed education contribution and to the delivery of 25% affordable housing. He concluded that the site location and local facilities supported the proposed development.

In response to questions from Members Mr Fleming confirmed that the applicant had no issue with the provision of 25% affordable housing on the site. The inclusion of business units and opportunities for tourism had been looked into but were not considered viable. He added that very few local jobs were lost at the closure of the school as most employees came from out with East Lothian.

Mrs D Main spoke against the application. She was concerned that the proposed link path through Garleton Court would be used as a safe route to school. She said that the constant flow of traffic and parked cars on either side of the street would present significant dangers to children as well as them having to cross a main road. She also raised the issue of potential flooding and sought assurances that effective drainage would be in place to ensure that existing properties were not flooded as a result of this and other proposed developments in the area.

Mr R Kay spoke against the application. He stated that this development was one of four being proposed for Gullane and that it should be considered in relation to these other developments rather than in isolation. He referred to the potential impact on facilities such as the GP surgery and said that too much development too quickly would be detrimental to community life within the village.

Mr Tom Drysdale of Gullane Area Community Council spoke on the application. He said that while the Community Council did not object to the application they did have some concerns. These centred on three issues: the inclusion of a limited number of business units within the site, delivery of the 25% affordable housing on site and that due to significant safety concerns a condition be added to ensure that Muirfield Drive was not used for construction access to the site.

Local Member Councillor Day referred to the site's inclusion in the Main Issues Report (MIR) and Local Development Plan (LDP) but said that his colleagues were right to raise concerns about access, traffic management, drainage and affordable housing. He hoped that officers would take on board these comments and he would be supporting the application.

Local Member Councillor Goodfellow commented on the importance of resolving the drainage issues and said he was reassured by officers' advice. He welcomed the Convener's commitment on affordable housing and he would be prepared to support the application on that basis.

Local Member Councillor Berry commented that not enough consideration had been given to business opportunities and to other developments proposed for the village. He also expressed concern about the impact on the village should the developer fail to deliver 25% of affordable residential units on site. He indicated that he could only support the application if the proposed conditions were amended to ensure this point. He therefore moved that condition 2(ii) of the recommended Section 75 agreement be amended by deleting the remainder of the wording after "...affordable residential units..."

The Convener cautioned Members against amending the Section 75 agreement and changing the policy and practice of many years. He reminded them of his previously given commitment that any failure to deliver 25% affordable housing on site would be referred to Council.

Councillor Currie seconded the motion. He added that no Convener could give a commitment beyond their term of office and this site would be developed over a number of years. He noted that the developer appeared committed to delivering affordable housing on the site and he would be supporting the application subject to the amended condition.

Councillor Innes was concerned that Members were making too much of the issue. He said the policy was in place to provide for commuted sums in situations where developers did not consider the site attractive for affordable housing. However, he was confident it would be delivered on this site.

Councillor McMillan concurred with Councillor Berry's views on the lack of innovative and creative thinking around the business development opportunities within the site. Contrasting

this with a previous application, he said he would have welcomed further assessment of these matters.

Following further clarification from officers regarding link paths and drainage issues the Convener brought the discussion to a close. He added that any continuing concerns about transport or drainage issues could be addressed when considering the application for detailed planning permission. In the meantime, he would be supporting the recommendation to grant planning permission as set out in the report.

The Convener moved to the vote on the amendment to condition 2(ii) of the Section 75 agreement – deleting the remainder of the wording after “...affordable residential units...”

For: 16
Against: 0
Abstentions: 0

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

For: 16
Against: 0
Abstentions: 0

Decision

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

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; 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 Lothian Local Plan 2008.

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:

To ensure sufficient education capacity can be provided for the pupil product of the development.

- 3 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall be generally based on the landscape proposals shown in principle on the docketed Indicative Masterplan 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:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

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

Reason:

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

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

Reason:

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

- 6 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.

5. PLANNING APPLICATION NO. 15/00127/PP: PLANNING PERMISSION IN PRINCIPLE FOR RESIDENTIAL DEVELOPMENT, COVERED PARKING, FORMATION OF NEW VEHICULAR ACCESS AND EXTENSION TO CAR PARK ON LAND AT THE GLEBE, ST MARGARET'S ROAD/ST ANDREW'S STREET, NORTH BERWICK

The Chair advised that the applicant had indicated that he would like consideration of his application to be deferred to a future meeting of the Planning Committee.

The agent for the application, Mr Mark Richardson, confirmed that his client wished to withdraw his application from today's meeting and resubmit it to a future meeting. He advised that, following the site visit on Friday 15 April, further discussions on the application were taking place.

Decision

The Committee agreed to defer consideration of this application to a future date.

6. PLANNING APPLICATION NO. 15/01022/PCL: CHANGE OF USE OF BEACH AREA TO FORM EXTENSION TO EXISTING CAR PARK AT MARINE PARADE, NORTH BERWICK

The Committee had earlier agreed to defer consideration of planning applications 15/01022/PCL and 16/00023/PCL to a future meeting.

Decision

The Committee agreed to defer consideration of this application to a future date.

7. PLANNING APPLICATION 16/00023/PCL: CHANGE OF USE OF GRASSED AREA TO FORM CARPARKING AREA AT TANTALLON TERRACE, NORTH BERWICK

The Committee had earlier agreed to defer consideration of planning applications 15/01022/PCL and 16/00023/PCL to a future meeting.

Decision

The Committee agreed to defer consideration of this application to a future date.

8. PLANNING APPLICATION NO. 15/00966/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 14/00632/PPM – ERECTION OF 120 HOUSES, 20 FLATS AND ASSOCIATED WORKS, FERRYGATE FARM, NORTH BERWICK

A report was submitted in relation to Planning Application No. 15/00966/AMM. Keith Dingwall, Principal Planner, presented the report and summarised the key points. He also advised that, in November 2015, following an appeal to the Scottish Government, planning permission in principle had been granted for this development. The report recommendation was to grant consent.

In response to questions from Councillor Berry, Mr Dingwall advised that there would be no vehicular access on Gas Works Road; vehicular access would be via Dirleton Road. He added that the need for traffic calming measures would have been considered as part of the application for planning permission in principle. The proposal today complied with the master plan for this development.

Councillor Goodfellow raised a number of points and Mr Dingwall provided a history of planning applications for the site and clarified the position in relation to the developer's education contribution and delivery of affordable housing.

Mr Dingwall also confirmed that a pedestrian access (past Williamson Farm) into North Berwick and a safe route to school would be provided.

Councillor Day enquired if the developer had control of land to the south of the site and a representative from Miller Homes advised that the company had an option on this site until April 2017 and that the boundary between the two areas of land consisted of a hedgerow.

Councillor Goodfellow asked if the development would consist of only 1 and 2 bedroom houses and was advised that there would be one and two bedroom houses and that some units may be increased to 3 bedrooms.

There were no speakers on behalf of the application or against the application.

Local Member Councillor Day stated that he would not be supporting the application. He was concerned that a development of this scale was being considered following planning consent being given to other developments in the area. He was also concerned that there was no defensible boundary to the development.

Councillor Goodfellow advised that the local community was not in favour of a development at Ferrygate Farm. He also considered that the need for 3 bedroom homes had not been addressed in the application, which did not reflect either the wishes or the needs of North Berwick. He would not be supporting the application.

Councillor Berry was in total accord with his colleagues, stating that Ferrygate Farm was the wrong place for this development.

Councillor Currie noted that 25% of the proposed homes would be affordable housing and that the ratio of different sized units had been discussed with Council Housing Officials. He acknowledged that there were Members who did not like the proposals, but pointed out that that was not sufficient grounds to refuse the application. He also pointed out that a number of applications refused by the Committee had been overturned by the Scottish Government. In his experience, applications for such large developments were generally not well received, but he asked how affordable housing could be delivered for East Lothian without these developments. He would be supporting the application.

Councillor Innes stated that he too would be supporting this application, but for a different reason. He stated that the Reporter had already taken a decision on the application and so the Committee was bound to support the application. However, in his view, there needed to be further discussions on the mix of houses proposed, in order to better serve the needs of the community.

Councillor Grant stated that he understood the concerns of Local Members. However, he considered that the Committee had no choice but to support the application and he too hoped that the mix of homes on the site could be reviewed.

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

For: 13
Against: 3
Abstentions: 0

Decision

The Committee agreed to grant consent to the application 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.

9. PLANNING APPLICATION NO. 15/00916/P: 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 AT 5 HIGH STREET, NORTH BERWICK.

A report had been submitted in relation to Planning Application No. 15/00916/P. Mr McFarlane presented the report and summarised the key points. The proposed decision set out in the report was for refusal of the application.

There were no questions from Members on this application.

Keith MacDonald, agent for the applicant, stated that the property met all stated criteria and no objection had been received from the Community Council. His client noted the parking concerns, but restrictions were enforceable. The Planning Officer had refused the application as it failed to comply with policy ENV2 which states that changes of use of retail units would only be acceptable where the Council was satisfied that a retail use was no longer viable. Mr MacDonald advised that the premises had been marketed for longer than the minimum 3 months normally required by the Council to evidence this and the previous owner confirmed that no offers had been made for the property prior to interest being expressed by his client. Mr MacDonald therefore considered that policy ENV2 had been complied with and added that the market for takeaway food in North Berwick was sufficiently buoyant to support his client's business.

Local Member Councillor Berry would be not supporting the report recommendation. He stated that he had no objection to the operation of a hot food takeaway business on these premises and that the shop had lain empty for two years. He had called the application off the Scheme of Delegation in order that the Committee could make an assessment of the application as the Council had received complaints about venting at such units in the past. He did not agree that the terms of policy ENV2 had not been complied with in respect of the marketing of the property as a retail unit.

Local Member Councillor Goodfellow also would not be supporting the report recommendation. He acknowledged that hot food takeaways can sometimes be known as bad neighbour developments, but only 4 objections had been received to this application, mainly concerned with the narrowness of the pavement. There had been no significant record of traffic problems outside this business and he had no reason to expect that this would change. He noted the Case Officer's reason for refusal but he had been aware that the premises had been for sale for considerably longer than 3 months and was content to accept that as evidence that the premises had been marketed.

Local Member Councillor Day agreed with his colleagues. He also pointed out that the previous business at these premises had operated for a number of years with no complaints.

Councillor Currie advised that this property had been marketed by Paris Steele for at least 18 months. It had been advertised on its website and had featured on its board on the High Street. He stated that the business would provide employment in the area and pointed out that the issue of the narrow pavement would apply equally to all businesses in the High Street. He would therefore not be supporting the report recommendation.

Councillor McMillan had observed that this was the only empty premises currently on the High Street. In his view, it added to the amenity of the area and would be particularly popular during the Fringe on the Sea festival. He too, therefore, would not be supporting the report recommendation.

The Convener brought the discussion to a close and moved to the vote on the report recommendation (to refuse consent):

For: 0
Against: 16
Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to conditions to be determined by the Convener/local Members and officers.

DRAFT

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee

MEETING DATE: 7 June 2016

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

2

Application No. **15/00630/PM**

Proposal Erection of 240 houses and associated works

Location **Land to the South of Bowmont Terrace**
Dunbar
East Lothian

Applicant Robertson Homes, Bett Homes, Hallhill Development Ltd

Per Holder Planning

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: 15/00002/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 44 people attended the pre-application public exhibition, which was held at the Dunmuir Hotel, Dunbar on 20 May 2015, and that those attendees made a number of queries and suggestions regarding the proposals. The development for which planning permission is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

The application site is an area of agricultural land in the East Lothian countryside, located on the southeastern fringes of Dunbar. It is some 11.35 hectares in area and is roughly rectangular in shape. The land of the application site is defined by Policy DC1 of the adopted East Lothian Local Plan 2008 as being part of the countryside of East Lothian and is not allocated for housing development.

The site is bounded to the east by the A1087 Bowmont Terrace public road, to the south by both the access road to Newtonlees Farm and the farm itself and to the north by the housing estate of Beachmont Place. To the west the site is bounded by the East Coast Main Line beyond which is agricultural land. That agricultural land is allocated by Proposal BUS4 of the adopted East Lothian Local Plan 2008 for an extension to Spott Road Industrial Estate.

Planning permission is sought through this application for the erection on the application site of 240 houses and associated works.

The site plan shows how the proposed 240 houses would be accommodated on the site along with associated access roads, parking areas, landscaping and open space. The houses would comprise of a mix of detached, semi-detached and terraced two storey houses.

Of the 240 houses, 158 would be detached, 26 semi-detached and 56 terraced. In terms of size, 28 of the proposed 240 houses would contain 2 bedrooms, 57 would contain 3 bedrooms, 146 would contain 4 bedrooms, and 9 would contain 5 bedrooms.

Of the 240 houses there would be a total of 180 private houses for sale. The houses would comprise of 27 different house types, including the provision of 60 affordable housing units of 2 different house types.

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

Since the registration of the application revised site layout plans, landscaping plans, elevation plans and house type drawings have been submitted to show a revised site layout for the proposed development and a revision of some house types.

Given the extent of these changes this application was re-advertised in the local press and neighbours re-notified of the proposals on 1 March 2016 to allow for comment on the revisions to the proposed development.

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), 5 (Housing Land) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP1 (Landscape and Streetscape Character), DP2 (Design), DP4 (Design Statements), DP14 (Trees on or Adjacent to Development Sites), DP17 (Art Works-Percent for Art), DP20 (Pedestrians and Cyclists), DP22 (Private Parking), DP24 (Home Zones), ENV7 (Scheduled Monuments and Archaeological Sites), INF3 (Infrastructure and Facilities Provision), H1 (Housing Quality and Design), H4 (Affordable Housing), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), 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.

A material consideration in the determination of the application is the supplementary planning guidance of "Design Standards for New Housing Areas" approved by the Council on 10 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 the application is Scottish Government Advice given in Planning Advice Note 67: Housing Quality.

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

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

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

This is reflected in paragraph 25 of Scottish Planning Policy in which it is stated that the Scottish Government's commitment to the concept of sustainable development is reflected in Scottish Planning Policy's Purpose. It is also reflected in the continued support for the five guiding principles set out in the UK's shared framework for

sustainable development. Achieving a sustainable economy, promoting good governance and using sound science responsibly are essential to the creation and maintenance of a strong, healthy and just society capable of living within environmental limits.

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

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

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

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

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

At its Cabinet meeting of 10 December 2013, the Council agreed that at that time East Lothian had a shortfall in its effective housing land supply and in respect of this also approved Housing Land Supply: Interim Planning Guidance against which planning applications for housing on land not allocated for housing development would be assessed. This position, and the associated guidance, was updated in December 2014 and again in February 2016.

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

Material to the determination of the application are the written representations to the proposals. Twenty one written objections have been received. Copies of the written

representations are contained in a shared electronic folder to which all Members of the Committee have had access.

The main grounds of objection are that:

- * the proposed development would lead to harmful overlooking, overshadowing, a loss of privacy and result in the loss of outlook particularly to the neighbouring residential properties to the north;
- * the proposed development would have a detrimental impact on infrastructure in Dunbar in terms of schools, doctor surgeries and dentists;
- * there is inadequate drainage and sewerage capacity to serve the proposed development;
- * the proposed development would lead to flooding;
- * the proposed development would lead to an increase in traffic and a resultant road safety hazard;
- * the size of the development is inappropriate;
- * the scale and design of the proposed houses would be out of keeping with those of Beachmont Place;
- * there is a difference in the height of the land compared to that of the housing development to the north; and
- * there should be future maintenance of the landscape buffer between the site and Beachmont Place.

Dunbar Community Council, as a consultee on the application advise that they are generally supportive of the proposed development but raise some concern that 240 houses may be too many for the site and that a smaller number may be preferable. They also comment on the need for sufficient infrastructure, consideration of ground levels on the site, the need for accessible play space and the provision of safe cycle and walking routes and safe routes to school.

The primary material consideration in the determination of this application is whether or not 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 DR5 of the draft Proposed Plan approved by Council on 17 November 2015. As such, in respect of the provisions of Paragraph 34 of SPP, the proposal would not prejudice the emerging Plan.

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

facility and other essential infrastructure.

In that the site now under consideration is housing site DR5 of the approved draft Proposed Plan, the Council recognises its potential for residential development. Proposal DR5 allocates the site for a residential development of circa 250 homes. It is therefore appropriate to determine this application with due consideration of that recognised residential potential, subject to the above considerations and assessments.

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

Thus the site being identified site DR5 of the approved draft Proposed Plan is a material consideration to be weighed against the considerations of national, strategic and local planning policy.

One of these considerations relates to the control of new build housing development in the countryside. Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008 sets out the circumstances in which new housing in the countryside may be appropriate, that being where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use and also minimises the loss of prime agricultural land. The housing development proposed in this application is not necessary in these terms and as such is contrary to that policy provision.

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

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

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

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

Bowmont Terrace is an important gateway into Dunbar. It is proposed that the houses

along the eastern side of the application site, and thus closest to Bowmont Terrace, would be set back and separated from the road by landscape planting. The landscape planting would soften and serve to integrate the proposed development into its landscape setting, gently introducing an additional extent of urban character at this important gateway into Dunbar. It would ensure a visually attractive approach into Dunbar, with the proposed houses visible but not appearing prominent or intrusive in their surroundings. The proposals respond appropriately to the character of this location in such respect.

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

The range of house types proposed would give a variation of architectural form to the development, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development. The architecture of the proposed houses is of a traditional pitched roof form. It should be ensured that the use of render is the predominant wall finish as this would respect the built form of other housing developments in Dunbar. However, some use of a contrasting wall finish (i.e. reconstituted stone or facing brick) would be acceptable providing it is limited to a distinctively complete feature of the houses and respectful of their design integrity. A condition can be imposed on the grant of planning permission for the proposed development to address these matters of wall finishes.

The proposed housing development would provide an attractive residential environment. The houses are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses an appropriate level of privacy and residential amenity. Notwithstanding this, it is proposed to enclose some of the rear garden boundaries by a 0.75 metres high post and wire fence. 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 and of a solid form. This can be secured by the imposition of a condition for the proposed housing development.

The proposed new houses would be so sited, oriented and screened such as not to harm the privacy and amenity of neighbouring or nearby residential properties through overlooking or overshadowing.

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

In their generally simple architectural form the proposed houses would, by their size, height, design, finishes and layout integrate and sit comfortably with the built architectural form and layout of the other housing developments to the north and northeast.

In respect of open space provision, the Council's Principal Amenity Officer advises that the proposed open space provision shown to be provided is sufficient to provide for the development. With regard to formal play provision the Principal Amenity Officer advises that on-site equipped play provision must be provided but this is not shown on the submitted site layout drawing. However he advises that the proposed area of open space towards the southwest of the site affords a good opportunity to locate this requirement and thus it could be provided there, which would still leave adequate informal space to serve the proposed development. Subject to a condition being imposed on a grant of planning permission to secure the provision of on-site equipped play provision the proposed housing development is consistent with Policies C1 and C2 of the adopted East Lothian Local Plan 2008.

In terms of path connections to provide a safe route to school from the site, the preamble to Proposal DR5 of the approved draft Proposed Plan states that provision must be made by any proposal on the application site for the delivery of a footpath across the adjacent allocated employment land at Spott Road via the underpass of the East Coast Main Rail line. This underpass is located some 58 metres to the south of the southern boundary of the application site.

The Council's Roads Services confirms that a safe footway connection with lighting must be provided from the site to the underpass and across the field adjacent to the Asda Superstore linking the proposed development with Spott Road and the existing footpath network, to provide a suitable safe route to school and a route to the commercial facilities at Spott Road for both pedestrians and cyclists.

Hallhill Developments Ltd is one of the joint applicants of this application. It has confirmed that it owns the adjacent allocated employment land at Spott Road on the west side of the East Coast Main Rail line. It has also confirmed that it has servitude rights of access over the track on the east of the East Coast Main Rail line, through the underpass onto the adjacent allocated employment land. Therefore it can reasonably be made a condition of a grant of planning permission for the proposed development that such a footpath be provided. The proposed development layout has been designed so as to facilitate provision of such a footpath link.

The Council's Roads Services does not object to the proposals. It has considered the Transport Assessment submitted with the application and advises that traffic likely to be generated by the proposed development could be satisfactorily accommodated on the local road network. Roads Services do raise concern that cumulative traffic movements likely to be generated by the proposed development and other housing developments could lead to some extra pressure on traffic flows on the A1 corridor. However at this time Roads Services analysis and modelling of traffic impacts in the wider area awaits completion and no further evidence is available at this time to inform an assessment of such impacts.

Roads Services do raise the matter of the operational capacity of the Queens Road/ Spott Road junction to accommodate the additional traffic that could be generated by the proposed development and by other developments proposed within the Dunbar area and advises that the Council proposes to undertake road improvements works at, or in the vicinity of the Queens Road/ Spott Road junction, which should increase the capacity of this junction. The applicant accepts Road Services requirement for a developer contribution of £45,000 towards these road improvement works. This contribution would have to be made prior to occupancy of the first house.

Roads Services further advise that a footpath from the north east corner of the site along the railway boundary to connect with Spott Road would provide a key alternative route to

the Town Centre, Train Station and School. The applicant's plans show a footpath within the site linking to this point and denote on the plans that the proposed footpath within the site would link to an informal path on the route identified by Roads Services. In this the applicant also identifies the importance of this route. Roads Services note that the applicant has not submitted design proposals for these works and advise that the Council will provide a final design solution for the route. In respect of this they advise of a requirement for a commuted sum of £90,000 for construction. Roads Services also advise that if this footpath link is not designed and programmed for construction within 2 years of the commencement of development of the housing then the funds would be returned.

The financial contributions of £45,000 and £90,000 from the proposed development could 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. The applicant has agreed in writing to the payment of £45,000 for junction improvements but at the time of writing had not yet confirmed if this is also the case for the payment of £90,000.

Roads Services additionally recommend that:

- * the existing 30 miles per hour (mph) speed limit on the A1087 Bowmont Terrace public road be extended southwards including along the entire length of site frontage and shall incorporate town entry treatments and a Dunbar Gateway sign;
- * the proposed site access junctions with the A1087 Bowmont Terrace public road be designed in accordance with the Design Manual for Roads and Bridges, Volume 6;
- * an independent road safety audit be undertaken for the proposed site access junctions with the A1087 Bowmont Terrace public road which should include an implementation programme describing when measures identified in the audit will be provided in relation to construction of the proposed development;
- * street lighting be provided over the full extent of the proposed new 30mph speed limit on the A1087 Bowmont Terrace public road;
- * a visibility splay of 4.5m by 90m in both directions be provided and maintained at each of the proposed site access junctions with the A1087 Bowmont Terrace public road so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface;
- * a continuous 2 metre wide shared footway be provided on the west side of the A1087 Bowmont Terrace public road along the application site frontage to connect to the existing footway network to the north with dropped kerbs provided as necessary;
- * access, parking and footpath requirements be to Council standards and thereafter maintained for those purposes;
- * 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 imposition of conditions to cover these recommendations of Roads Services, the proposed development does not conflict with Policies DP20, T1 and T2 of the adopted East Lothian Local Plan 2008.

Transport Scotland have been consulted on the application and raise no objection to the proposed development.

Network Rail have been consulted on the application. They recommend that it would be appropriate to require developer contributions to fund improvements to the rail network to accommodate the proposed development. However it is for Network Rail to demonstrate the need for and the quantum of any contributions towards rail improvements, all relative to the principles set out in Circular 3/2012: Planning Obligations and Good Neighbour Agreements. No such case has been made in respect of the housing development proposed in this application. In these circumstances it would be unreasonable for the Council as Planning Authority to insist that as a requirement of development of the application site a financial contribution is made towards rail improvements as Network Rail recommend. There is no development plan provision that identifies need for contributions to towards rail improvements.

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

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

The Council's Environmental Health Service advises that to ensure there is no loss of amenity to any existing neighbouring or nearby residential properties during the construction phase of the development that a Construction Method Statement should be submitted for the prior approval of the Planning Authority which should cover matters of noise and dust control.

In respect of the East Coast Main Line railway the Environmental Health Service, having appraised the applicant's submitted noise assessment, also advises that for the completed development, noise control measures should be imposed to ensure no loss of amenity to the residential properties. This requires the provision of an acoustic barrier along the western boundary of the site and mitigation measures in the form of upgraded glazing and ventilation units in noise sensitive rooms within the residential units identified in the submitted noise assessment.

Subject to the use of conditions to secure these measures, the proposed development would not harm the amenity of any existing neighbouring or nearby residential properties, consistent with Policy DC1 of the adopted East Lothian Local Plan 2008 and the proposed residential units would have a satisfactory standard of amenity.

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

The Scottish Environment Protection Agency (SEPA) raises no objection to the proposed development on the grounds of potential flood risk.

In respect of SUDS provision SEPA advises it 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 the proposed SUDS system onsite.

In respect of foul drainage, SEPA advise that they have no objection to the proposed development subject to the imposition of a condition requiring details of a foul drainage scheme, which can be imposed on a grant of planning permission.

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 the Dunbar Primary Schools and Dunbar Grammar School.

He advises that Dunbar Primary School (John Muir Campus P1 – P3) has sufficient capacity to accommodate children that could arise from the proposed development.

He further advises that Dunbar Primary School (John Muir Campus Pre-School), Dunbar Primary School (Lochend Campus P4 – P7) and Dunbar Grammar 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 £303,748.80 towards the provision of additional school accommodation at Dunbar Primary School (John Muir Campus Pre-School) (£1,265.62 per unit), £878,906.40 towards the provision of additional school accommodation at Dunbar Primary School (Lochend Campus P4 – P7), (£3,662.11 per unit) and a contribution of £792,000 (£3,300 per unit) towards the provision of additional school accommodation at Dunbar Grammar School.

The required payment of a financial contribution of a total of £1,974,655.20 (£8,227.73 per unit) towards the provision of additional accommodation at Dunbar Primary School (John Muir Campus Pre-School), Dunbar Primary School (Lochend Campus P4 – P7) and Dunbar Grammar 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 in accordance with the Council's Affordable Housing Policy, 25% of the proposed 240 houses should be affordable housing units. The affordable housing component of the proposed housing development is 60 units. 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 is willing to do, the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

As the site is within the battlefield site of the Battle of Dunbar II that is included in Historic Environment Scotland's Inventory of Historic Battlefields Historic Environment Scotland have been consulted on the application. Historic Environment Scotland raise no objection to the application on the matter of impact on the battlefield site advising that the proposed development would raise no issues of national significance as they consider that the application site does not contribute strongly towards an understanding or appreciation of the battlefield landscape.

On the above consideration the proposed development does not conflict with Policy ENV7 of the adopted East Lothian Local Plan 2008.

Given the scale of the proposed development, if planning permission were to be granted it would be appropriate for artwork to be incorporated either as an integral part of the overall design of it or as a related commission to be located on the site or in an approved alternative location. This could be achieved by means of a condition on a grant of planning permission, subject to which the 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 allocated housing site DR5 of the approved draft Proposed Plan as amended, and in that its impacts in respect of amenity and technical considerations can be mitigated through the appropriate use of planning conditions, the balance of the material considerations of this case support the proposals. In this it is consistent with Scottish Planning Policy: June 2014 and SESplan Policy 7, which considerations outweigh the provisions of Policy DC1 of the adopted east Lothian Local Plan 2008.

RECOMMENDATION

It is recommended that planning permission 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 of a total of £1,974,655.20 (£8,227.73 per unit) towards the provision of additional accommodation at Dunbar Primary School (John Muir Campus Pre-School), Dunbar Primary School (Lochend Campus P4 – P7) and Dunbar Grammar School;
 - (ii) Secure from the applicant 60 affordable residential units within the application site or if it can be demonstrated to the Council that this, or the off-site provision of 60 affordable residential units is not practicable, to secure from the applicant a commuted sum payment to the Council in lieu of such an on or off-site provision;
 - (iii) Secure from the applicant a financial contribution to the Council of £45,000 towards the provision of road improvements/ alterations at, or in the vicinity of, the junction of

Queens Road and Spott Road, Dunbar. The contribution would have to be made prior to occupancy of any of the houses hereby approved; and

(iv) secure from the applicant a commuted sum of £90,000 for construction of a footpath from the north east corner of the site along the railway boundary to connect with Spott Road would provide a key alternative route to the Town Centre, Train Station and School on the commencement of development.

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 Dunbar Primary School (John Muir Campus Pre-School), Dunbar Primary School (Lochend Campus P4 – P7) and Dunbar Grammar School, the lack of provision of affordable housing and an unacceptable impact on the junction of Queens Road and Spott Road, contrary to, as applicable, Policies INF3 and H4 of the adopted East Lothian Local Plan 2008.

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

Year 2016/2017 - 27 residential units
Year 2017/2018 - 57 residential units
Year 2018/2019 - 86 residential units
Year 2019/2020 - 70 residential units

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

Reason:

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

- 3 Prior to the commencement of works on site a revised detailed scheme of landscaping shall be submitted for the approval of the Planning Authority. This shall include details of:

- i) all trees and shrubs on site and denote those to be retained and those to be removed and the root

protection areas in accordance with BS5837: 2012;

ii) tree protection measures in accordance with BS5837: 2012 and construction method statements for all works encroaching on root protection areas, including that any such work shall be supervised by a qualified arboriculturalist;

iii) tree planting as mitigation for any trees to be removed, including species; street tree planting;

iv) a planting schedule, specification and maintenance programme, including details of maintenance access where required;

v) details of the design and screening for the proposed sub station on the northeastern part of the site.

Reason:

To ensure the retention and maintenance of the trees on the site which are an important landscape feature of the area and to ensure the implementation and maintenance of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 4 No development shall take place on site until temporary protective fencing has been erected in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction". This temporary protective fencing shall be erected prior to works commencing and kept in good condition throughout the works. The fencing shall be erected in the positions shown for it as shown on the approved revised detailed scheme of landscaping.

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

Reason:

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

- 5 Unless otherwise agreed in writing by the Planning Authority all new planting as approved in terms of the revised detailed scheme of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings in the phases of the site, 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.

All the new planting shall be maintained in accordance with the maintenance programme of the approved revised detailed scheme of landscaping.

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:

In order to ensure the implementation and maintenance of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 6 Notwithstanding that shown on the drawings docketed to this planning permission, 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 solid enclosures around rear gardens of the houses hereby approved except where those boundaries are adjacent

to a road or pathway where they shall be feature walls to heights and finishes to be approved in advance by the Planning Authority.

Details submitted shall also include the design, construction and materials of the entrance feature walls at the main accesses to the site.

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.

7 Prior to the occupation of the last of the residential units hereby approved, the proposed site access roads, parking spaces and footpaths shall have been constructed on site, in accordance with that which is shown on the docketed drawings, otherwise the layout shall be subject to the following requirements:

1) Parking for the proposed residential elements of the development shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads – Part 5 Parking Standards. At this time house sizes on individual plots have not been identified and therefore layouts may be subject to adjustment in respect of parking numbers at the detailed application stage.

2) All access roads shall conform to ELC Standards for Development Roads in relation to roads layout and construction, footways & footpaths, parking layout and number, street lighting and traffic calming measures.

3) Vehicle access's 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.

4) Driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m 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.

5) Within residential 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.

6) 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.

Thereafter those access, parking and footpath provisions shall not be used for any other purpose than for accessing and for parking in connection with the residential use of the houses and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

8 A play area with equipment suitable for children aged 0 - 15 years shall be provided on the area of open space on the southwest part of the application site which is to the north of plots 30-31 as shown on docketed site layout drawing no. 15026(PL)001P. Prior to the commencement of the development hereby approved the details of the play equipment and surfacing materials to be installed in the play area shall be submitted to and approved in advance by the Planning Authority. The details to be submitted shall include a timetable for its installation.

The play equipment and surfacing materials shall thereafter be installed in accordance with the details so approved.

The equipped play area, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory laying out of all play areas in the interest of the amenity of the future occupants of the residential units hereby approved.

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

Other than to provide the play area as required by Condition 7 above, the open space recreation areas, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

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

- 10 A visibility splay of 4.5m by 90m shall be provided and thereafter maintained in both directions at each of the application site access junctions with the A1087 Bowmont Terrace public road so that no obstruction lies within them above a height of 1.05 metres measured from the adjacent carriageway surface.

Reason:

In the interests of road safety.

- 11 No development shall commence unless and until a 30 miles per hour (mph) speed limit on the A1087 Bowmont Terrace public road has been brought into effect in a location from the existing 30 miles per hour (mph) speed limit on the A1087 Bowmont Terrace public road southwards to include along the entire length of site frontage. Details of the new 30 miles per hour speed limit shall be submitted to and approved in advance by the Planning Authority and shall include the provision of street lighting over the full extent of the proposed new 30mph speed limit and shall incorporate town entry treatments and a Dunbar Gateway sign. Thereafter the new 30 miles per hour speed limit, street lighting, town entry treatments and Dunbar Gateway sign shall be implemented and installed in accordance with the details so approved.

Reason:

In the interests of road safety.

- 12 No development shall commence unless and until an independent road safety audit has been submitted to and approved in advance by the Planning Authority. The independent road safety audit shall be undertaken for the proposed site access junctions with the A1087 Bowmont Terrace public road and shall include an implementation programme describing when measures identified in the audit will be provided in relation to construction of the proposed development.

Reason:

In the interests of road safety.

- 13 The proposed site access junctions with the A1087 Bowmont Terrace public road shall be designed in accordance with the Design Manual for Roads and Bridges, Volume 6.

Reason:

In the interests of road safety.

- 14 Prior to the occupation of any of the residential units hereby approved a continuous 2 metre wide shared footway shall be provided on the west side of the A1087 Bowmont Terrace public road along the application site frontage to connect to the existing footway network to the north with dropped kerbs provided as necessary.

Details of the new 2 metre wide footway shall be submitted to and approved in advance by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 15 Prior to the occupation of any of the residential units hereby approved a footpath linking the application site with Spott Road to the west shall be provided. This footpath shall be provided across the adjacent allocated employment land at Spott Road to the west of the site via the underpass of the East Coast Main Rail line to the south of the southern boundary of the application site. Details of the footpath including its route and construction and a timetable for its

implementation 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 ensuring a safe route to school in respect of the development in the interests of pedestrian safety.

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

Reason:

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

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

Reason:

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

- 18 Prior to the commencement of development a scheme to connect to the public waste water network shall be submitted for the written approval of the Planning Authority, in consultation with Scottish Water. The scheme must demonstrate appropriate alignment of the phasing and timing of the development with the provision of secondary treatment by Scottish Water at the Dunbar Waste Water Treatment Works.

Reason:

To protect people and the environment from the impact of waste water and ensure that the development can be serviced by the public waste water sewerage scheme.

- 19 A Construction Method Statement to specify the measures to be adopted to protect the amenity of neighbouring residential properties from the effects of noise and dust arising as a result of the construction phase of the proposed development shall be submitted to and approved by the Planning Authority prior to the commencement of development.

Reason:

In the interests of the amenity of the area.

- 20 In order to ensure compliance with the upper limit for daytime garden noise levels of 55dB(A)eq,t specified in paragraph 7.7.3.2 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings" due to noise associated with rail traffic on the East Coast Main Line, mitigation measures in the form of an Acoustic Barrier shall be provided along the western boundary of the application site prior to the occupation of any of the residential units hereby approved. The barrier shall be 4 metres in height (2 metres close boarded timber fence atop a 2m earth bund or equivalent) in accordance with detail to be submitted to and approved in advance by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved. To maintain the acoustic performance of the barrier, the selected timber fence shall be appropriately fitted with no holes or gaps and thereafter be maintained as such.

Reason:

In the interest of safeguarding the residential amenity of future occupiers of the proposed residential development.

- 21 In order to ensure compliance with daytime and night-time internal noise levels specified in Table 4 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings" due to noise associated with road traffic on the A1087 and the East Coast Main Line, the following mitigation measures shall be provided:

(i) upgraded glazing and ventilation units shall be installed within the living room windows of the residential units as specified and shown in Appendices 1 and 2 of the docketed Noise Assessment Addendum by Wardell Armstrong of May 2016;

(ii) upgraded glazing and ventilation units shall be installed within the bedroom windows of the residential units as specified and shown in Appendices 3 and 4 of the docketed Noise Assessment Addendum by Wardell Armstrong of May 2016.

Thereafter such form of attenuation shall be retained in place unless otherwise approved by the Planning Authority.

Reason:

In the interest of safeguarding the residential amenity of future occupiers of the proposed residential development.

- 22 Notwithstanding that which is stated on the drawings docketed to this planning permission, 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. However, some use of a contrasting wall finish (i.e. reconstituted stone or facing brick) would be acceptable providing it is limited to a distinctively complete feature of the houses and flats and respectful of their design integrity. All such materials used in the construction of the houses shall conform to the details so approved.

Reason:

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

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

Reason:

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

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

Reason:

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

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

REPORT TO: Planning Committee

MEETING DATE: 7 June 2016

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

3

Note - this application was called off the Scheme of Delegation List by Councillor McMillan for the following reasons: This proposal covers an important development in the town in terms of social and economic need. I believe there are a number of issues which need to be discussed in Committee before this application is determined.

Application No. **15/00599/P**

Proposal **Erection of a nursing home, 30 extra care flats and associated works**

Location **Land West of Gateside Road
Haddington
East Lothian**

Applicant **Nigel Jowett and Carolyn Jowett (Haddington)**

Per **Scott Hobbs Planning Limited**

RECOMMENDATION **Application Refused**

PLANNING ASSESSMENT

In November 2014 planning permission in principle 13/00800/PPM was granted for a residential and business development on 3.5 hectares of land at the western side of Haddington. The land consisted of a field (known as the Gateside East field) that is located to the east of the former Gateside Commerce Park and to the west of Gateside Road. The field is enclosed on its northern, eastern and southern boundaries by a mix of hedgerows and trees.

The illustrative site plan docketed to planning permission in principle 13/00800/PPM indicates how the approved residential and business uses might be accommodated within the site. The business land, which would have an area of 0.96 of a hectare, is shown to be located on the southern part of the site. Although there were no definitive proposals relating to the layout or type of business units, the site plan shows how five units could be accommodated on the site. It is further indicated that these units could be single storey or two storeys in height and could be contained within a landscape setting. It is also indicated that a landscaped buffer would be planted between the business and residential uses.

The approved illustrative site plan indicates that access to the business land could be taken from Gateside Road at a point some 90 metres to the north of the junction of Gateside Road and the B6471 road and that access to the residential part of the site could be taken from Gateside Road at a point approximately 110 metres to the north of the proposed access to the business land.

In April 2015 approval of matters specified in conditions of planning permission in principle 13/00800/PPM (Ref: 14/00940/AMC) was granted for the erection of 20 houses on part of the northern end of the land approved for residential use by planning permission in principle 13/00800/PPM. Also in April 2015 approval of matters specified in conditions of planning permission in principle 13/00800/PPM (Ref: 14/00941/AMC) was granted for the erection of 40 houses on another part of the land approved for residential use by planning permission in principle 13/00800/PPM. The site for application 14/00941/AMC also includes a small part of the land approved for business/light industrial units (Class 4 use) by planning permission in principle 13/00800/PPM.

Residential development of the site commenced some time ago.

In November 2014 planning permission (Ref: 14/00904/P) was sought for the erection of 19 houses on the remainder of the land approved for residential use by planning permission in principle 13/00800/PPM. That application is minded to be approved subject to a Section 75 legal agreement.

In March 2015 planning permission (Ref: 15/00204/AMM) was sought for the erection of business units and associated development on the land approved for business use by planning permission in principle 13/00800/PPM. That application was not registered as a valid application due to insufficient or inaccurate information being submitted with it. It was later withdrawn.

It is the land approved for business use that forms the site that is the subject of this planning application.

The application site is bounded to the east by Gateside Road and to the north by the northern part of the site that is being developed for housing, beyond which is a length of the Haddington to Longniddry railway walk.

To the west the application site is bounded by a narrow road, beyond which is the land of the former Gateside Commerce Park. In January 2015 planning permission (Ref: 14/00219/PM) was granted for the erection on the former Commerce Park site of 112 houses, 14 business/ light industrial units (Class 4 use) and a pub/ restaurant. The commerce buildings have been demolished. Development of the 112 houses, business/light industrial units (Class 4 use) and a pub/ restaurant has commenced. In January 2016 the Council resolved to grant planning permission (Ref: 15/00686/PM) for the erection of 97 houses on the part of the site that was approved for residential use by the grant of planning permission 14/00219/PM. The resolution to grant planning permission was subject to the prior conclusion of a legal agreement to secure: (i) affordable housing units, (ii) a financial contribution to upgrade the access junction with West Road and for a financial education contribution towards additional accommodation at Haddington Infant School and Knox Academy, (iii) the servicing of the land for business/light industrial units and the transfer of the land on which they are to be built to the Council. That legal agreement has not been concluded so planning permission 15/00686/PM has not yet been granted.

To the south the application site is bounded by the B6471 West Road, beyond which is

agricultural land which forms part of a larger area of land allocated by Proposal H3 (Letham Mains) of the adopted East Lothian Local Plan 2008 for a mixed use development of 750 houses, social and community facilities and associated infrastructure.

In July 2013 planning permission (Ref: 13/00519/PM) was sought for the erection of 385 houses and 48 flats on the western part of that allocated housing site. In January 2014 planning permission (Ref: 14/00089/PM) was sought for the erection of 257 houses and 119 flats on the eastern part of that allocated housing site. In July 2014 planning permission (Ref: 14/00534/PCL) was sought for the erection of a primary school on the central part of that allocated housing site. At their meeting of 2 June 2015 the Planning Committee resolved to grant planning permission for the development proposed in applications 13/00519/PM and 14/0089/PM subject to the prior conclusion of a legal agreement. That legal agreement has not been concluded so planning permissions 13/00519/PM and 14/00089/PM have not yet been granted. At that same meeting the Planning Committee granted planning permission 14/00534/PCL for the new primary school.

A residential property known as Gateside Cottage is also located to the southwest of the application site.

Planning permission is now sought for the erection of a nursing home with 30 extra care flats on the application site. The proposed nursing home would contain 60 bedrooms.

The nursing home and extra care flats would be contained in one building, which would have a roughly J-shaped footprint. The building would be set below the ground level of the housing site to the north. It would be principally located within the northern part of the site, although its southeast wing would extend into the southern half of the site. It would be within the southeast wing that the 30 extra care flats would be contained. Communal facilities in the form of a cinema room, reception and waiting area, and 'day space' room would be located in the ground floor of the northeast corner of the building and a quiet room and multi-activity room would be located in the first floor of the northeast corner of the building, between the extra care flats and the bedrooms of the nursing home. The building would be predominantly two storeys in height, although its southeast wing would be two storeys in height with accommodation in the roofspace. The building proposed would be of a contemporary design. The roofs of the building would be shallow pitched and finished with dark grey and red coloured concrete roof tiles. The walls of the building would mainly be finished in white render with smaller sections of wall being finished in grey brown coloured weatherboard. The building would feature a reconstituted stone basecourse. The doors and windows of the building would be of timber construction.

Vehicular access to the nursing home and extra care flats would be taken from Gateside Road, at a point some 80 metres to the north of the junction of Gateside Road and the B6471 road. A total of 44 car parking spaces would be provided within the northeast part of the application site. A communal garden area and a SUDS pond would be located to the south of the proposed building. A service yard, private garden ground and a secure cycle store would be located to the north of the proposed building.

The application is supported by a planning and consultation statement, a tree survey, and a design and access statement.

Amended plans have been submitted showing revisions to the design of the proposed building and the provision of additional parking spaces. Further supporting information, including photomontages and perspective drawings have also 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 the 05 May 2016 the Council gave a formal screening opinion. The screening opinion concludes that the proposed development is unlikely to have significant effects on the environment to the extent that expert and detailed study through EIA would be necessary to properly assess any effect. Therefore, there is no requirement for the proposed development to be the subject of an EIA.

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

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

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 Proposal BUS6 (Gateside, Haddington) and Policies BUS1 (Business and General Industrial Locations), C12 (Residential Care and Nursing Homes- Location), DP1 (Landscape and Streetscape Character), DP2 (Design), DP14 (Trees on or adjacent to Development Sites), DP17 (Art Works- Percent for Art), T2 (General Transport Impact), DP20 (Pedestrians and Cyclists), and DP22 (Private Parking) of the adopted East Lothian Local Plan 2008.

One public objection to the application has been received. It is made by the Haddington and District Amenity Society (HADAS). Whilst they support the principle of the proposed development, HADAS object to the layout and design of the proposed development. In their view the proposed design falls short of its potential to respond to its significant landscape setting and to maximise integration with the adjacent development sites. Amongst their concerns, HADAS consider that the building footprint would be improved if broken up into smaller blocks. The development has a significant footprint and potential visual impact resulting from the single massing of the building and the 3 storey height if kept in its current form.

The application site forms part of a larger site that is allocated for business use by Proposal BUS6 of the adopted East Lothian Local Plan 2008. Were Proposal BUS6 to be implemented then Policy BUS1 would come into effect. Policy BUS1 supports in principle uses within Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

Nursing home and extra care flats fall within Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Proposal BUS6 and Policy BUS1 do not give any support to Class 8 use within any part of the application site. The nursing home and extra care flats would be sited on and thus would result in the loss of the land of the application site that is allocated by the Planning Authority for business and industrial use to meet part of an identified need for business land in East Lothian to enable and sustain the economy of East Lothian and the Lothians.

The proposed development is therefore contrary to Proposal BUS6 and Policy BUS1 of the adopted East Lothian Local Plan 2008.

Notwithstanding this, it is necessary to consider whether there are material considerations in this case that outweigh this element of development plan policy.

The adopted Local Plan states that the number of very elderly people in East Lothian is rising. Together with NHS Lothian, the Council is examining ways in which the supply of care places can be increased. The proposed development would help to address this need through the provision of both a nursing home and extra care flats.

Another material consideration relates to the jobs that would be created by the proposed development.

The Council's Economic Development Manager advise that the East Lothian Economic Development Strategy 2012-22 has two strategic goals of increasing the number of businesses in East Lothian with growth potential and increasing the proportion of East Lothian residents working in and contributing to East Lothian's economy. The Strategy has a target to create 7,500 new jobs within 10 years, of which some 1,019 are required in Haddington. Whilst the exact number of jobs that could be created by the proposed development will depend on a number of factors, including the needs of residents and the layout of the building, the Economic Development Manager estimates that it could create some 80 full time equivalent job opportunities. Moreover, by the nature of their provision, nursing home and extra care developments require skilled staff. Moreover, the Economic Development Manager advises that the proposal would have positive impact on the economy of Haddington through the creation of local employment, increased local spending, and through the use of local business services and suppliers. For these reasons the Economic Development Manager raises no objection to the proposed development.

The contribution that the proposed development would make towards increasing the supply of care places for elderly people together with the economic benefits that would result are significant material considerations. In the circumstances of this case, they outweigh the policy presumption against the Class 8 use proposed in this application.

The application site is within Haddington. In its location, the proposed nursing home and extra care flats would have reasonable access to the normal range of community services. On these considerations the proposed development is consistent with Policy C12 of the adopted East Lothian Local Plan 2008.

The Council's Director of Health and Social Care was consulted on this planning application but did not respond.

To safeguard the future privacy and amenity of the residents of the houses proposed to the north of the application site, a 5.0 metres wide landscaped buffer was proposed along the northern edge of the application site. The current proposal includes for a landscaped buffer along the northern edge of the site, varying in width between 4 to 9 metres. Whilst the proposed building would be erected in reasonably close proximity to those houses, the implementation of the proposed landscaped buffer along the northern edge of the site would ensure that the future occupants of these houses would be afforded an appropriate level of privacy and residential amenity. The proposed development would provide an attractive residential environment for future residents of the nursing home and extra care flats.

On the matters of privacy and amenity the proposed development is consistent with Policy DP2 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Health Service raise no objections to the proposed

development.

The Council's Environmental and Consumer Services raise no objection to the proposed development, although they make comment in respect of the proposed kitchen. A copy of their response has been sent to the applicant for their information.

The proposal includes the retention of most of the existing tree belt along the southern and eastern boundaries of the application site. The planting proposals have been amended to overcome concerns raised by the Council's Landscape Project officer. She raises no landscape objections to the amended proposals, although she recommends that a detailed scheme of landscaping should be submitted in respect of the application site. Existing trees on the site should also be retained. The retention of existing trees and the submission of the detailed scheme of landscaping and thereafter its implementation can be secured by the imposition of conditions, were planning permission to be granted for the proposed development.

On the matter of tree retention the proposed development is consistent with Policy DP14 of the adopted East Lothian Local Plan 2008.

Surface water from the proposed development would be treated by two levels of sustainable urban drainage system (SUDS) in the form of permeable paving and a detention basin. The Scottish Environment Protection Agency are satisfied with this and raise no objection to the proposed development.

Scottish Water were consulted on the planning application but have not commented on it.

The submitted details for accessing the proposed nursing home and extra care flats are in accordance with the details for accessing the site approved by planning permission in principle 13/00800/PPM. These are that vehicular access to the housing development should be taken from Gateside Road.

The Council's Road Services raise no objection to the submitted details, being generally satisfied with the proposed means of access and the number and location of parking spaces proposed. He makes a number of recommendations in respect of both the construction and the operational phases of the proposed development. This includes ensuring that the minimum age of residents should be 55. All of these requirements can be secured by the imposition of conditions, were planning permission to be granted for the proposed development.

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.

As a Class 8 use, the proposed extra care flats are exempt from the Council's Affordable Housing Policy.

The proposed development by its scale and prominent public location would result in significant change to the local environment and thus in accordance with the requirements of Policy DP17 of the adopted East Lothian Local Plan 2008 it should incorporate artwork either as an integral part of the overall design or as a related commission. This can be secured by the imposition of a condition, were planning permission to be granted for the proposed development.

Notwithstanding these considerations, the principal material consideration is whether or

not the proposed nursing home and extra care flats would be appropriate form of development within this site and if not, whether other material considerations justify approving this application contrary to the development plan.

The application site occupies a gateway location immediately adjacent to the main approach into Haddington from the west. It occupies a prominent corner location at the junction of Gateside Road and the B6471 road (West Road).

The northwest end of Haddington is currently undergoing significant change, with the land to the north and west of the site being developed for housing. In time, it is also likely that the land of Letham Mains, to the south of the site, will also be developed for housing. In taking the decision to grant planning permission for these housing developments, the Council as Planning Authority have been careful to minimise the impact of these developments when viewed from West Road. The housing approved to the north and west of the site is all two storeys in height. Additionally, roadside planting is proposed to reduce the impact of the proposed housing to the west. The business unit indicatively approved for the application site by planning permission in principle 13/00800/PPM were indicated as being either single storey or two storeys in height.

The proposed development consists of one building, which would be two storeys in height, other than its southeast wing, which would contain three floors of accommodation. In response to concerns raised about its size and visual impact, the design of the building has been amended such that the third floor of accommodation within the southeast wing would be partly contained in the roofspace of the building. The applicant is also proposing some additional planting to supplement the tree belts along the south and west boundaries of the site. Notwithstanding this, given the scale of the building and the size and position of its southeast wing, which would sit well above the existing tree line to the south and east, the proposed building would appear as a prominent and intrusive feature within its gateway location. As a prominent and intrusive feature, the proposed building would be harmful to the character and appearance of the area, contrary to Policies DP1 and DP2 of the adopted East Lothian Local Plan 2008.

Other material considerations, including the provision of care spaces for the elderly and the jobs that would be created through the development of the care home, do not outweigh the adverse visual impact of the proposed development. As such, planning permission should be refused.

REASON FOR REFUSAL:

- 1 The proposed nursing home and extra care flat building, by virtue of its size, scale and positioning would appear as a prominent and intrusive feature within its gateway location. As such, it would be harmful to the character and appearance of the area, contrary to Policies DP1 and DP2 of the adopted East Lothian Local Plan 2008.

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