



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

**TUESDAY 6 DECEMBER 2016  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

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

**Council Officials Present:**

Ms M Ferguson, Service Manager – Legal and Procurement  
Mr I McFarlane, Service Manager – Planning  
Mr K Dingwall, Team Manager – Planning Delivery  
Mr D Irving, Senior Planner  
Ms S McQueen, Planner  
Mr M Greenshields, Transportation Planning Officer  
Ms P Bristow, Communications Officer

**Clerk:**

Ms A Smith

**Visitors Present:**

Item 2 – Mr D Bell, Mr D Hamilton, Mr I Sills, Mr M Park  
Item 3 – Mr B Tait

**Apologies:**

Councillor S Currie  
Councillor T Trotter

**Declarations of Interest:**

Item 2 – Councillors Day, Goodfellow, McMillan and McNeil all declared an interest as Directors of Enjoy East Lothian Ltd, consultee and representor to this application; they would leave the Chamber for this item.

**1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 1 NOVEMBER 2016**

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

*Sederunt – Councillors Day, Goodfellow, McMillan and McNeil left the Chamber*

**2. PLANNING APPLICATION NO. 16/00466/P: ERECTION OF 1 HOUSE AND ASSOCIATED WORKS AND ALTERATIONS TO EXISTING BUILDING AT 2 RAVENSHEUGH ROAD, MUSSELBURGH**

A report was submitted in relation to Planning Application No. 16/00466/P. Stephanie McQueen, Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Ms McQueen responded to questions from Members. She advised that the proposed planning application was deemed as infill. With regard to enforcing the hedge height, she referred to conditions within the report, stating these were based on advice from the Council's Landscape Officers. She confirmed that the width of the hedge was 4 metres, with approximately 2.75 metres within the application site.

David Bell of Fouin and Bell Architects, agent for the applicant, stated the proposal was for a detached house on the northern part of the site. This was not a designated Conservation Area. The adjacent building was not listed. This proposal complied with planning policy. It was not an overdevelopment. There were no overlooking or overshadowing issues. Whilst he understood the concerns raised many related to the loss of the former Mrs Formans public house; permission for this had already been granted, so this was not relevant. Regarding matters of safety in relation to 'over-sailing' golf balls, this had been fully addressed in the report. The hedge would be retained as advised by the golf professional and the relevant conditions adhered to. He asked Members to endorse the recommendation.

Councillor McLeod asked about liability for damage or injury caused by golf balls. Morag Ferguson, Service Manager – Legal and Procurement, advised that the individual golfer would normally be liable but added that there had been cases where the golfer had brought in the golf club if it could be demonstrated that a course hole was badly designed.

David Hamilton, a golf historian, spoke against the application. He made reference to the importance of this golf course, which was crucial to the history of golf. There was great concern in the golfing world about this planning application. This course was important in terms of golf heritage and tourism for the town and county. The impact for this historic golf course was unthinkable if this application for a house at the 4<sup>th</sup> hole was granted.

Councillor Berry noted that other golf courses had houses nearby without any particular issues and queried why this house would affect the course. Mr Hamilton stated that the proposed house was higher than the existing building; the hedge would not provide sufficient protection and 'over-sailing' golf balls could lead to litigation claims.

Ian Sills, representing Enjoy Leisure, operators of the Musselburgh Old Golf Course, spoke against the application. He raised a couple of factors: the safety of the occupants of the

proposed house and the impact on the golf course of 'over-sailing' golf balls at the 4<sup>th</sup> hole. This hole was iconic in terms of world golf. There were two ways to play this hole, which he detailed, and drew attention to potential issues including possible legal action and consequences for the golf course. He stressed that if this resulted in redesign of the 4<sup>th</sup> hole and course the golf world would lose one of its most iconic holes and courses.

Mr Sills responded to questions. He confirmed that the 4<sup>th</sup> hole was one of the original holes on the course. Regarding questions about the PGA Professional golfer's advice he remarked that this was on the basis of the former Mrs Forman's public house and garden, not a 2 storey building so there was a question of whether the existing hedge would be high enough. Ian McFarlane, Service Manager – Planning, stated that the report made clear that Environmental Health and the PGA Professional golfer had been consulted and their advice was as reported.

Mungo Park spoke against the application. Referring to the amount of hedge outwith the application site, he queried responsibility for maintenance and replacement and also interim measures, such as fencing or netting, if replacement was required. He stated that given the trajectory of golf balls a condition stipulating toughened glass windows plus fixed non-opening windows was needed. The proposed building was larger than the footprint of the former Mrs Forman's; it was an overdevelopment. He was speaking for many local golfers in objecting to this application; it would also have an impact on golf locally, nationally and internationally. Cognisance should be taken of local history assets and this application threatened this, he urged Members to refuse the application and protect this legacy.

Councillor Brown asked how the Planning Authority could stipulate a 4 metre hedge when not all of it was on the applicant's property. Mr McFarlane advised that one test for a planning application was reasonableness, it could be part maintained by the property owner and part by the golf course; alternatively the golf course could allow the owner access to maintain the overhanging section from their side.

Local Member Councillor Caldwell remarked that the historic aspects had been referenced by the objectors so he did not intend to raise these. He drew attention to Mr Sill's comments about the different approaches to the 4<sup>th</sup> hole. He stated that golf balls used to go through the hedge at the former Mrs Forman's public house into the beer garden; there was potential for someone to get hurt. Maintenance of the hedge would become the responsibility of the owner of the property; deterioration was likely. It was a small site for such a large house, it was overdevelopment. He would not be supporting this application.

Local Member Councillor Forrest agreed with his colleague's comments regarding 'over-sailing' golf balls entering the garden of the proposed house. He did have concerns about the consequences for the golf course if this occurred. He also felt that the proposed house was an overdevelopment.

Councillor Williamson appreciated the very full report. Regarding issues raised about 'over-sailing' golf balls he felt that this was covered adequately by the conditions in the report. He would be supporting the application.

Councillor McLeod indicated that he did have some concerns and therefore would not be supporting the application.

Councillor Innes appreciated that the Musselburgh Old Golf Course was extremely historic and held in high regard by people around the world. He stated however that Members had to consider the application in relation to planning considerations. He referred to issues raised by the objectors; specifically 'over-sailing' golf balls, but noted that the PGA Professional golfer's advice was that the height of the hedge would be sufficient. On balance, he would be supporting the application.

Councillor MacKenzie remarked that he was also impressed with the detail in the report and the actions stated to address concerns. He praised the design and finishes of the proposed house. He would be supporting the application.

Provost Broun-Lindsay stated that he was not entirely satisfied, despite the conditions detailed in the report, that the hedge alone would withstand progressive seasons and be an adequate barrier. He was not certain how the Council would deal with an obdurate home owner unwilling to plant a new hedge. He was not satisfied that sufficient protection would be provided to the golf course. He, regretfully, would not be supporting the application.

Councillor Grant remarked that he was quite satisfied with the conditions in the report. He did not think the proposal constituted overdevelopment of the site. He had sympathy for the concerns expressed by the objectors but could not see any planning reasons for refusal. He would be supporting the officer's recommendation.

The Convener brought the discussion to a close. Referring to comments from Members about the hedge, he asked if an extra condition could be added to enforce replanting if the applicant failed to do this. Mr McFarlane advised that the conditions set out strengthened the case regarding replanting; if the entire hedge died and if replanting of sections previously needing replanting had not been done, then enforcing of that condition could involve temporary netting as seen on other golf courses. The Convener stated that he was reassured by these comments and would be supporting the recommendation set out in the report.

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

For: 6  
Against: 6  
Abstentions: 0

Due to the equal number of votes, and in accordance with the Council's Standing Orders, the Convener used his casting vote – for approval of the application.

### **Decision**

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

- 1 No development shall take place on the site until the applicant has, through the employ of an archaeologist or historic buildings specialist, secured the implementation and reporting of a programme of archaeological work (historic building recording (basic) and monitored soil strip) in accordance with a written scheme of investigation which the applicant/agent 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 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.

- 3 A Construction Traffic Method Statement designed to minimise the impact of construction activity and the movements of construction traffic shall be submitted to and approved by the Planning Authority prior to the commencement of development on the site. It shall include any recommended mitigation measures for the control of construction traffic, including hours of construction works, routing of vehicles and delivery time restrictions, which shall be implemented, as applicable, prior to the commencement of development and during the period of development works being carried out on the application site.

The Construction Traffic Method Statement shall take account of school opening and closing hours within school term times and shall avoid movement of construction and delivery traffic during those times.

Reason:

To minimise the impact of construction traffic in the interests of pedestrian, cyclists and road safety in the area and in the interests of safeguarding the amenity of the area.

- 4 Construction details and specifications of the new vehicular access hereby approved shall be submitted to and approved in writing by the Planning Authority prior to its formation in the development hereby approved, and thereafter the vehicular access shall be constructed in accordance with the details so approved, unless the Planning Authority give written consent to any variation.

Reason:

In the interests of road safety.

- 5 Prior to the house hereby approved being brought into use the proposed vehicle access, turning and parking arrangements shall be laid out as shown in docketed drawing no. (PL)01/Rev G, including the provision of two parking spaces for the house to be formed through the conversion of the existing building of 2 Ravensheugh Road, and thereafter the access, turning and parking areas shall be retained for such uses.

Prior to any use being made of the vehicular access hereby approved the first 5 metres of the vehicular access and driveway, measured from the back edge of the adjacent public footpath and for the full width of the access, shall be hard surfaced and thereafter retained as such.

Reason:

To ensure that loose material does not enter the public road and in the interests of road safety.

- 6 Notwithstanding that which is stated in the Tree Survey and Arboricultural Constraints Report docketed to this grant of planning permission, 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.

Prior to the commencement of development a management method statement for maintenance and retention of the west boundary hedge, in accordance with the requirements set out above, shall be submitted to and approved in writing in advance by the Planning Authority. Thereafter, the west boundary hedge shall be maintained in accordance with the management method statement so approved, unless the Planning Authority gives written consent to any variation of that document.

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 any replacement hedge shall be maintained, and if necessary replaced, in accordance with the requirements set out above in this condition.

Reason:

In the interests of safeguarding the amenity of the occupiers of the proposed house and the cultural heritage value of the setting and character of the historic Musselburgh Old Golf Course.

- 7 A schedule and samples of the materials to be used as external finishes of the house, including the colour of the frames of the windows and external doors, hereby approved shall be submitted to and approved by the Planning Authority prior to their use in the development and thereafter the materials used shall accord with the samples so approved.

Samples of the materials to be used to surface the hardstanding areas to be used as driveway, paved patio, footpaths and vehicular parking and turning areas shall be submitted to and approved by the Planning Authority prior to their use in the development and thereafter the materials used shall accord with the samples so approved.

Reason:

To ensure that the external finishes are appropriate in the interest of safeguarding the character and appearance of the area.

- 8 Details of the height, form and finish, including the colour of any paint, stain or timber preservative to be applied to its external surface if relevant, of the fencing hereby approved to be erected along the west side of the driveway also hereby approved shall be submitted to and approved in writing by the Planning Authority prior to the erection of the fencing as part of the development hereby approved, and thereafter the fencing as erected shall accord with the details so approved unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of safeguarding the character and appearance of the existing building and of area.

- 9 Details of the height, form and finish of the new length of wall hereby approved to be erected between the western end of the driveway also hereby approved and the existing west boundary wall of the site shall be submitted to and approved in advance in writing by the Planning Authority prior to the erection of the length of wall in the development hereby approved, and thereafter the length of wall as erected shall accord with the details so approved unless otherwise approved in writing by the Planning Authority.

In accordance with the requirements above, the length of wall shall be no higher than the existing rubble stone west boundary wall.

The new length of wall shall be positioned so as to be out with the root protection area of the existing west boundary hedge and the holly tree that is adjacent to the southern end of the hedge, all in accordance with details of this and of the construction of its foundations to be submitted to and approved in advance in writing by the Planning Authority.

Reason:

In the interests of safeguarding the character and appearance of the area and the retention of vegetation important to the character and appearance of the area.

- 10 The south boundary of the site shall not be enclosed by timber fencing. If any means of enclosure of the south boundary of the site is proposed it shall take the form of a boundary wall unless otherwise approved in writing by the Planning Authority. Details of the means of enclosure of the south boundary of the site shall be submitted to and approved in advance in writing by the Planning Authority prior to its erection in the development. The details submitted shall include the height, form and external finish of the means of enclosure and thereafter the means of enclosure as erected shall accord with the details so approved.

In accordance with the requirements above, the means of enclosures shall be no higher than the existing vehicular access gates of the neighbouring property of 4 Ravensheugh Road to the east of the site.

Reason:

In the interests of safeguarding the character and appearance of the area.

- 11 The rubble stone west and north boundary walls of the site and the black metal pedestrian gate of the west boundary of the site shall be retained in situ and shall be maintained at their respective existing heights of some 1.7 and 1.6 metres.

Reason:

In the interests of safeguarding the character and appearance of the area, the amenity of the occupiers of the proposed house and the cultural heritage value of the setting and character of the historic Musselburgh Old Golf Course.

- 12 The existing 1.35 metres high stone wall with 800mm high timber fencing attached to the top of it shall be retained in situ along the east boundary of the site with the neighbouring property of 4A Ravensheugh Road, and shall be maintained at its present height unless otherwise approved by the Planning Authority.

Reason:

In the interests of safeguarding the privacy and amenity of the proposed house hereby approved and the neighbouring residential property of 4A Ravensheugh Road to the east.

- 13 Prior to the occupation of the house hereby approved the first floor windows of its northeast elevation shall be obscurely glazed, as shown for them on docketed drawing no. (PL)06/Rev C, in accordance with a sample of the obscure glazing to be submitted to and approved by the Planning Authority in advance of its use on the northeast elevation of the house. The obscure glazing of the first floor windows of the northeast elevation of the house shall accord with the sample so approved. Thereafter the first floor windows on the northeast elevation of the house shall continue to be obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the neighbouring residential property of 4A Ravensheugh Road to the east.

- 14 Prior to the occupation of the house hereby approved the ground floor and first floor windows of part of its southeast elevation shall be obscurely glazed, as shown for them on docketed drawing no. (PL)05/Rev C, in accordance with a sample of the obscure glazing to be submitted to and approved by the Planning Authority in advance of its use on the southeast elevation of the house. The obscure glazing of the ground floor and first floor windows of part of the southeast elevation of the house shall accord with the sample so approved. Thereafter those ground floor and first floor windows of the southeast elevation of the house shall continue to be obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the neighbouring residential house approved by the grant of planning permission 15/01035/P at 2 Ravensheugh Road to the south.

- 15 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 windows or other openings shall be formed at first floor level within the northeast elevation of the house hereby approved, no windows or other openings shall be formed at ground floor or first floor level within the southeast elevation of the house hereby approved, and no windows or other openings shall be formed at ground floor or first floor level within the southwest elevation of the house hereby approved, other than those shown for those elevations on the docketed drawings.

Reason:

In the interests of safeguarding the privacy and amenity of the house hereby approved and the neighbouring residential properties to the east and south.

- 16 The house hereby approved shall not be occupied until the screen wall at the northeast end of the first floor balcony to be formed on the northwest elevation of the house hereby approved has been formed as shown on docketed drawing nos. (PL)05/Rev C, (PL)06/Rev C and (PL)03/Rev C. Thereafter, that screen wall shall be retained unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the neighbouring house and garden of 4A Ravensheugh Road to the east.

- 17 Prior to the occupation of the house hereby approved all of the windows and other glazed openings of the west elevation of the house shall be fitted with toughened glass in accordance with details of the toughened glass to be submitted to and approved in writing by the Planning Authority in advance of its use in the development hereby approved. The toughened glass of the windows and other glazed openings of the west elevation shall accord with the details so approved. Thereafter, the windows and other glazed openings of the west elevation of the house shall continue to be fitted with toughened glass unless otherwise approved by the Planning Authority.

Reason:

To safeguard the amenity of the future occupants of the house hereby approved and in the interests of safeguarding the cultural heritage value of the setting and character of the historic Musselburgh Old Golf Course.

- 18 The rendered finish to be applied to the section of new wall of the east elevation of the existing building shall match as close as possible the texture and colour of the existing rendered finish of the external walls of the existing building unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of safeguarding the character and appearance of the existing building and of wider area.

- 19 The frames of the new first floor window hereby approved to installed in the new opening also hereby approved to be formed in the east elevation of the existing building of 2 Ravensheugh Road shall be of timber construction and shall be painted to match as closely as possible the colour of the frames of the windows of the south (front) and west (side) elevations of the existing building, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of safeguarding the character and appearance of the existing building and of wider area.

- 20 Other than the trees numbered 1261, 1262, 1263 and 1264 on the site that are to be removed, as detailed on the site plan attached to the Tree Survey and Arboricultural Constraints Report docketed to this grant of Planning Permission, all other existing trees and hedges on the site shall be retained and shall not be damaged or uprooted, felled, lopped or topped without the prior written consent of the Planning Authority.

Reason:

In order to ensure the retention and health of trees or shrubs on and adjacent to the application site which are important to the landscape character of the area.

- 21 Notwithstanding the content of the Tree Survey and Arboricultural Constraints Report undertaken by TD Tree and Land Services Ltd and dated 28th July 2016, docketed to this grant of planning permission, the existing holly tree located immediately to the east side of the west boundary wall and to the south of the existing cypress hedge of the west boundary shall be retained in situ on the site, unless the Planning Authority gives written consent to any variation.

In the event that the existing holly tree dies, becomes seriously damaged or diseased, it shall be replaced in the next planting season a new tree of the same or similar species, in accordance with details of the replacement tree to be submitted to and approved in writing by the Planning Authority prior to its planting and thereafter the replacement tree 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 and the cultural heritage value of the setting and character of the historic Musselburgh Old Golf Course.

- 22 No development shall take place on site until temporary protective fencing to protect the west boundary hedge and the holly tree adjacent to the west boundary, in accordance with Figure 3 of British Standard 5837: 2012 "Trees in relation to design, demolition and construction" has been installed on the site in accordance with details of its position and specification to be submitted to and approved in writing in advance by the Planning Authority.

The fencing shall comprise HERAS, or similar approved, 2m high weld mesh enclosed panels supported on preformed weighted footings, tayed and fixed into the ground to withstand impact from machinery and access into the construction exclusion zone. The fencing shall be erected prior to work commencing and shall be retained on site fully intact through to the completion of the site development. All weather notices shall be erected on the fencing stating "Construction exclusion zone - Keep out".

Within the fenced off areas creating the construction exclusion zones the following prohibitions shall apply:-

- No vehicular or plant access;
- No raising or lowering of the existing ground level;
- No mechanical digging or scraping;
- No storage of temporary buildings, plant, equipment, materials or soil;
- No hand digging;
- No lighting of fires; and
- No handling discharge or spillage of any chemical substance, including cement washings.

Planning of site operations shall take sufficient account of wide / 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.

Reason

To ensure the retention of the hedge and tree which are important to the landscape character of the area.



- 23 In the first planting and seeding season (October - March) following the felling of the four trees hereby approved or the completion of the works, whichever is the sooner, four replacement trees shall have been planted on the application site in the positions shown for them on docketed drawing no. (PL)01/Rev G, and in accordance with the details for their planting, species and size, to be submitted to and approved in writing by the Planning Authority prior to their planting.

In the event that any such replacement tree(s) die, are removed, or become seriously damaged or diseased within a period of 10 years following planting they 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:

To ensure the implementation of landscaping in the interests of the character and appearance of the area.

*Sederunt – Councillors Day, Goodfellow, McMillan and McNeil returned to the Chamber*

**3. PLANNING APPLICATION NO. 16/00037/P: CHANGE OF USE OF CAR PARK AREA TO OUTDOOR DINING AREA, ALTERATIONS TO BUILDING, ERECTION OF WALL AND GATE AT THE SHIP INN, 184 NORTH HIGH STREET, MUSSELBURGH**

A report was submitted in relation to Planning Application No. 16/00037/P. Keith Dingwall, Principal Planner, presented the report, summarising the key points. The proposed decision set out in the report was for refusal of the application.

In response to questions Mr Dingwall confirmed that while each planning application had to be determined on its own merits precedent could be a clear and justified reason for refusal. Marshall Greenshields, Transportation Planning Officer, answered questions about the contemporary parking standards. He confirmed that the parking requirement for the premises had never been met, but stated that this proposal would compound the existing shortfall; losing all the current parking provision was a concern. Regarding queries about a previous application granted approval to operate as licensed premises despite lack of parking facilities, he advised that it depended on the previous use of the building; it was not permissible to impose something on an existing building.

Bob Tait of Planning and Building Design Ltd, agent for the applicant, informed Members that the applicant's intention was to improve the premises, to make the business more viable taking into account the changing needs of customers. He drew attention to other properties owned by the applicant, Caledonian Heritable. He outlined the details of the proposal stating that most of the elements were acceptable to the Planning Authority; only the change of use of the car park and resulting loss of parking provision was not acceptable. The proposal did not conflict with Policy ENV1. He disputed the view of Road Services that this large car park was needed; the area in question would be better utilised as an outdoor dining area, not a car park. He urged Members to grant consent.

Responding to questions, Mr Tait clarified that the 2 car parking spaces proposed would be allocated as 1 for disabled use and 1 for general use.

Local Member Councillor McNeil stated that the Ship Inn was a well established, well run public house. He made reference to the largest public house in Musselburgh, Wetherspoon's, which had no car parking provision; he felt a precedent had been set with approval of that application. He did not agree with the report recommendation; plenty of parking was available on the surrounding streets. He would be supporting the application

Local Member Councillor Williamson noted that the net loss in terms of parking spaces as a result of this proposal would be 6 spaces; he also noted that there had never been enough spaces to meet the Council's Parking Standard, so he felt this was not an issue. The applicant's proposal would be an improvement to the premises; it would be good for business and also for the town. He would be supporting the application.

Councillor Caldwell indicated that he did have a concern about the parking provision. This proposal would increase the number of people coming into the area, which could also increase the number of cars seeking a parking space.

Councillor Day agreed with the Local Members. He had sympathy with the comments expressed by the agent; businesses needed to evolve to take account of changing customer requirements. He would be supporting the application.

Councillor McLeod also agreed with Local Members, he would be supporting the application.

Councillor Grant disagreed with his colleagues; he felt that the advice from Road Services was correct, this was a congested area and there was a risk as outlined by officers in the report. He supported the officer's recommendation to refuse this application.

The Convener brought the discussion to a close. He did have concerns about this public house, the age of the building and also had concerns about the number of public houses that had closed. Attracting tourists to the county and to this town was important, quality premises were needed for this purpose. Where there was off street parking nearby in significant quantity, as in this case, he felt that policies should be relaxed and development allowed. He would be supporting this application.

Following additional questions from Members, Mr McFarlane clarified that change of use of the car park did need planning permission and subsequent to this would also need licensing approval. Ms Ferguson confirmed that a premises licence required a layout plan so when there was a proposed layout change, as was the case with this application, then a variation to the licence would have to be submitted to the Licensing Board.

With regard to policy queries Mr McFarlane stated that there were two separate but connected issues, the East Lothian Local Plan policies and the Council's Parking Standards. He advised that it would be more appropriate to relax policies when required, treating each planning application on its own merits, rather than changing policies.

The Convener then moved to the vote on the report recommendation (for refusal):

For: 4

Against: 12

Abstentions: 0

#### **Decision**

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

- 4. PLANNING APPLICATION NO. 16/00706/PM: VARIATION OF CONDITION 17 OF PLANNING PERMISSION IN PRINCIPLE 15/00473/PPM TO RESTRICT THE TIMING OF COMMENCEMENT OF DEVELOPMENT OF THE CEMETERY LAND ONLY AT DOLPHINSTON FARM LAND ADJACENT B1361, EDINBURGH ROAD, PRESTONPANS**

**5. PLANNING APPLICATION NO. 16/00707/PM: REMOVAL OF CONDITION 17 OF PLANNING PERMISSION IN PRINCIPLE 15/00473/PPM AT DOLPHINSTON FARM LAND ADJACENT B1361, EDINBURGH ROAD, PRESTONPANS**

Reports were submitted in relation to Planning Applications Nos. 16/00706/PM and 16/00707/PM. Daryth Irving, Senior Planner, presented the reports, summarising the key points. The report recommendations were:

- Item 4 – Planning Application No. 16/00706/PM – to grant consent
- Item 5 – Planning Application No. 16/00707/PM – for refusal

Mr McFarlane, responding to questions about transfer of ownership of the cemetery land to the Council, confirmed that an agreement was in place between the Sport, Countryside and Leisure service area of the Council and the owners of the land regarding the transfer.

Local Member Councillor Innes indicated that he would be supporting the officer's recommendation for both applications.

Local Member Councillor Brown echoed the view expressed by his colleague.

Local Member Councillor MacKenzie also concurred with his fellow ward colleagues.

The Convener moved to the vote on the report recommendations for both applications:

**Item 4 Planning Application No. 16/00706/PM – report recommendation (to grant consent)**

For: 16

Against: 0

Abstentions: 0

**Decision**

The Committee agreed to grant planning permission subject to the following 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 £916,284.80 (£5,726.78 per residential unit) towards the provision of additional capacity at Prestonpans Infant and Nursery School, Prestonpans Primary School and Preston Lodge High School.
  - (ii) Secure from the applicant the provision of 25% of the final approved number of residential units within the application site as affordable residential units or if it can be demonstrated to the Council that this, or the off-site provision of 25% of the final approved number of residential units as affordable units is not practicable, to secure from the applicant a commuted sum payment to the Council in lieu of such an on or off-site provision.
3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient school capacity at Prestonpans Infant and Nursery School, Prestonpans Primary School and Preston Lodge High School and the lack of provision of affordable housing,

contrary to, as applicable, Policies INF3 and H4 of the adopted East Lothian Local Plan 2008.

- 1 The submission for approval of matters specified in conditions of the grant of planning permission in principle 15/00473/PPM in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) shall include details of the siting, design and external appearance of the residential units, the neighbourhood centre and the cemetery, the means of access to them, the means of any enclosure of the boundaries of the site and the landscaping of the site. Those details shall generally comply with the Illustrative Masterplan docketed to planning permission in principle 15/00473/PPM, but additionally shall comply with the following design requirements:
  - a. The residential dwellings shall be predominantly two storeys in height and no higher than three storeys in height and the external finish to their walls shall be predominantly rendered and coloured in accordance with a co-ordinated colour scheme that respects the layout of the development;
  - b. Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street;
  - c. There shall be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary street frontage;
  - d. The detailed design of the layout shall otherwise accord with the principles set out in the Council's Design Standards for New Housing Areas and with Designing Streets;
  - e. Notwithstanding that shown in the Illustrative Masterplan docketed to planning permission in principle 15/00473/PPM, there shall be at least a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing or proposed neighbouring residential properties;
  - f. an independent road safety audit shall be undertaken for the proposed site access junctions onto the B1361 road;
  - g. the proposed site access junctions onto the B1361 road shall be designed in accordance with the Design Manual for Roads and Bridges, Volume 6;
  - h. visibility splays of 4.5m by 90m in both directions shall be provided and maintained at the proposed site access junctions with the B1361 road so that no obstruction lies within them above a height of 1.05 metres measured from the adjacent carriageway surface;
  - i. the proposed development shall be carried out in strict accordance with British Standard BS5837\_2012 "Trees in relation to design, demolition and construction ~ Recommendations' sections 4, 5, 6, 7 and 8 and an arboricultural survey demonstrating this shall be submitted with application(s) for approval of matters specified in conditions;
  - j. parking for the residential development hereby approved shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads- Part 5 Parking Standards;
  - k. all access roads shall conform to East Lothian Council Standards for Development Roads and Design Standards for New Housing Areas in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming measures;
  - l. driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 metres length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;
  - m. within residential private parking areas the minimum dimensions of a single parking space shall be 2.5 metres by 5.0 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;
  - n. vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;
  - o. cycle parking be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed;

p. the cemetery shall be designed with appropriate levels of parking so that no parking shall overspill onto the B1361 road;

q. the cemetery access be suitable for the two way movement of vehicles so that no vehicle has to wait on the B1361 road whilst a vehicle is egressing. Vehicles should also be able to enter and leave the site in a forward gear;

r. any access gates to the cemetery shall be set back a minimum of 20 metres from the access junction with the B1361 road so that no vehicle has to wait on the B1361 whilst the gates to the cemetery are opened and closed;

s. a toddlers play area shall be provided within the application site. Details of the toddlers play area, including the equipment to be provided within it and a timetable for its implementation, shall be submitted to and approved in advance by the Planning Authority and the play area shall be installed in accordance with the details so approved;

t. a dedicated landscape strip with an average width of 10 metres shall be provided along the entire northern frontage of the application site;

u. a natural stone wall shall be formed along the entire length of the southern side of the dedicated landscaped strip on the northern boundary of the site as required by 1t above and the stone wall shall have an average height of 1 metre. Details of the exact position, height and construction of the wall shall be submitted to and approved in advance by the Planning Authority and shall include a timetable for implementation and the stone wall shall be erected in accordance with the details so approved; and

v. pathways within the site shall link to the path that runs eastwards from the site, adjacent to the disused section of railway line.

Reason:

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

- 2 No more than 160 residential units are approved by planning permission in principle 15/00473/PPM. Unless otherwise agreed in writing with the Planning Authority: the annual completion rates shall be those set out by the applicant i.e. 40 units per annum over a 4 year development period; and any slippage in any single year shall revert to year 5 or beyond, and not be added to the subsequent year.

Reason:

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

- 3 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall be generally based on the landscape proposals shown in principle on the Indicative Masterplan docketed to planning permission in principle 15/00473/PPM, shall include predominantly native species planting and shall otherwise fully accord with requirements of Conditions 1i and 1t above.

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

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

Reason:

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

- 4 A Green Travel Plan shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units approved by the grant of planning permission in principle 15/00473/PPM. 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 the development approved by the grant of planning permission in principle 15/00473/PPM. The Construction Method Statement shall recommend mitigation measures to control construction traffic and shall include hours of construction work and details of wheel washing facilities to be provided. Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Reason:

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

- 6 No development approved by the grant of planning permission in principle 15/00473/PPM shall commence unless and until the existing 40 miles per hour (mph) speed limit on the B1361 road has been extended along the entire length of that application site frontage which shall include village entry treatments. Details of the extension to the existing 40 miles per hour speed limit and village entry treatments shall be submitted to and approved in advance by the Planning Authority and shall include the provision of street lighting along the length of it. Thereafter the extended 40 miles per hour speed limit, village entry treatments and street lighting shall be implemented and installed in accordance with the details so approved.

Reason:

In the interests of road safety.

- 7 Prior to the occupation of any of the residential units approved by the grant of planning permission in principle 15/00473/PPM or any use being made of the neighbourhood centre also approved by the grant of planning permission in principle 15/00473/PPM:

a. a continuous 2 metre wide footway shall be provided on the south side of the B1361 road along the site frontage to link into the existing footway network, with dropped kerbs provided as necessary;

b. the footway on the northern side of the B1361 shall be upgraded to a minimum of 2 metres wide for a distance commensurate with the site frontage between the Royal Musselburgh Golf Club entrance and the U104 Drummohr Road;

c. two Double D Island crossing points shall be formed on the B1361 road to provide pedestrians with safe crossing points on appropriate desire lines.

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

Reason:

In the interests of road safety.

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

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

Reason:

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

- 9 No development approved by the grant of planning permission in principle 15/00473/PPM shall take place until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work (Evaluation and Metal Detecting Survey) on the site of the proposed development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 10 Prior to the commencement of the development approved by the grant of planning permission in principle 15/00473/PPM a comprehensive contaminated land investigation shall be carried out and a report on the findings of it shall be submitted to and approved by the Planning Authority. The report must include a site-specific risk assessment of all relevant pollutant linkages.

Where the site-specific risk assessment identifies any unacceptable risk or risks, development shall not begin until a detailed remediation strategy has been submitted to and approved by the Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved remediation strategy. Any subsequent amendments to the approved remediation strategy shall not be implemented unless approved in advance by the Planning Authority.

On completion of the remediation strategy and prior to the commencement of the development approved by the grant of planning permission in principle 15/00473/PPM a validation report shall be submitted to and approved by the Planning Authority confirming that the remediation of the site has been carried out in accordance with the approved remediation strategy.

The presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall immediately be brought to the attention of the Planning Authority to investigate whether further works shall be required to be carried out to determine if any additional remedial measures are required.

Reason:

To ensure that the site is clear of contamination.

- 11 Prior to the commencement of the development approved by the grant of planning permission in principle 15/00473/PPM intrusive investigation works shall be carried out at the application site in accordance with detail to be submitted to and approved in advance by the Planning Authority following consultation with The Coal Authority to assess ground stability due to former mine workings at the site. In the event that the intrusive investigation works confirm the need for remedial works to treat any areas of shallow mine workings, development shall not begin until a scheme of remedial works on the site has been submitted to and approved in writing by the Planning Authority, and thereafter have been fully implemented as so approved.

Reason:

To ensure that the site is clear of coal mining features and hazards prior to the occupation of any of the buildings.

- 12 A Construction Method Statement to specify the measures to be adopted to protect the amenity of neighbouring residential properties from the effects of noise and dust arising as a result of the construction phase of the development approved by the grant of planning permission in principle 15/00473/PPM shall be submitted to and approved by the Planning Authority prior to the commencement of development.

Reason:

In the interests of the amenity of the area.

- 13 Prior to the commencement of the development approved by the grant of planning permission in principle 15/00473/PPM a noise report shall be submitted to and approved in advance by the Planning Authority which shall demonstrate compliance with the following requirements, and any measures necessary to achieve the requirements shall be fully implemented as so approved:

a. the garden areas of the residential dwellings shall achieve the upper limit for daytime garden noise levels of 55dBLAeq,t specified in paragraph 7.7.3.2 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings" due to noise associated with road traffic on the B1361;

b. within the residential dwellings daytime and night-time internal noise levels as specified in Table 4 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings" shall be achieved due to noise associated with road traffic on the B1361;

c. within the residential dwellings World Health Organisation "Guidelines for community noise" internal level of <45dBLAmax (not to be exceeded more than 10-15 times a night) shall be achieved due to noise associated with the east coast main line.

Reason:

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

- 14 The design and installation of any plant or equipment associated with the operation of each of the commercial units proposed in the neighbourhood centre approved by the grant of planning permission in principle 15/00473/PPM shall be such that noise emanating from them shall not exceed Noise Rating Curve NR25 at any Octave Band Frequency when measured within any existing or proposed neighbouring residential property assuming windows open at least 50mm.

Reason:

To ensure the commercial units proposed in the neighbourhood centre do not harm the amenity of nearby residential properties.

- 15 The details of the extraction system to be used within the proposed class 3 restaurant/cafe space at the neighbourhood centre approved by the grant of planning permission in principle 15/00473/PPM, including efflux velocities of stack emissions and any odour control measures to be implemented in the form of primary, secondary and tertiary treatments shall be submitted to and approved in advance by the Planning Authority prior to the operation of the premises for Class 3 use, and such detail shall include a timetable for the implementation of such system.

Any mechanical extract ventilation equipment used to vent the premises as so approved shall be maintained to ensure their continued satisfactory operation and any cooking processes reliant on the extract system shall cease to operate if, at any time, the extract equipment ceases to function to the satisfaction of the Planning Authority.

Reason:

To ensure the Class 3 use does not harm the amenity of nearby residential properties by cooking odours.

- 16 No residential unit approved by the grant of planning permission in principle 15/00473/PPM shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the occupation of the final residential unit approved for erection on the site.

Reason:

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

- 17 No development of the cemetery approved by the grant of planning permission in principle 15/00473/PPM shall commence unless and until it has been demonstrated to the satisfaction of the Planning Authority in consultation with the Scottish Environment Protection Agency that it would have no unacceptable adverse impacts on the groundwater of the area.

Reason:

In the interests of the water environment.

**Item 5 Planning Application No. 16/00707/PM – report recommendation (for refusal)**

For: 16

Against: 0

Abstentions: 0

**Decision**

The Committee agreed to refuse planning permission for the following reason:

- 1 It has not been demonstrated that the cemetery approved by the grant of planning permission in principle 15/00473/PPM would have no unacceptable adverse impacts on the groundwater of the area.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee