

REPORT TO: Planning Committee

MEETING DATE: Wednesday 29 March 2017

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Application No. **16/00328/PM**

Proposal Erection of 93 houses, 20 flats, landscaping, SUDs and associated works

Location **Land Adjacent To Orchardfield
East Linton
East Lothian**

Applicant Stewart Milne Homes

Per HolderPlanning

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 49 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.

Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 15/00011/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 70 people attended the pre-application public exhibition, which was held at the East Linton Community Hall, East Linton on 3 March 2016, 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 southwestern side of the village of East Linton. It is some 6.3 hectares in area and is roughly L-shaped. 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 in that Plan for housing development.

The site is bounded to the east by the residential properties of Orchardfield and the recent housing development of Andrew Meikle Grove, to the south by the A199 and B1407 public roads and to the west and north by agricultural land. Core Path no. 83 is located along the northern boundary of the site.

Planning permission is sought through this application for the erection on the application site of 93 houses, 20 flats and associated works.

The development layout plan shows how the proposed 93 houses and 20 flats would be accommodated on the site along with associated access roads, parking areas, landscaping, open space and a SUDS pond. The houses would comprise of a mix of detached, semi-detached and terraced houses. The houses would be two-storey with the exception of the two houses on the south-western corner of the site (plots 35 and 36 on the site layout plan) which would be single storey. The flats would be contained within 5, two storey flatted buildings each containing 4 flats.

Vehicular, pedestrian and cycle access to the site would be taken by way of a new access junction with the B1404 road. It is proposed that the junction of the A199 and B1404 roads into East Linton be altered to improve road safety at that junction and thus for traffic entering and leaving East Linton.

A village green would be formed on the eastern part of the site and landscaped areas of open space would also be formed centrally within the site, on the southern part of the site and along the entire western edge of it. A SUDS pond would be formed on the southeastern corner of the site.

Of the 93 houses, 64 would be detached, 16 semi-detached and 13 terraced. In terms of size, 2 of the proposed 93 houses would contain 2 bedrooms, 33 would contain 3 bedrooms, 36 would contain 4 bedrooms and 22 would contain 5 bedrooms.

Of the 93 houses there would be a total of 85 private houses for sale. The houses would comprise of 18 different house types, including the provision of 28 affordable housing units which would be a mix of 2 different house types and 1 and 2 bedroom flats.

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 23 February 2016 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning

permission in principle. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed housing development to be the subject of an EIA.

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. They also showed a reduction in the number of proposed residential units from 119 to 113.

Given the extent of these changes this application was re-advertised in the local press on 3 February 2017 and neighbours were re-notified of the proposals on both the 30 and 31 of January 2017 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), DP13 (Biodiversity and Development Sites), 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.

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 06 September 2016 the Council approved its Proposed Local Development Plan. It sets out a development strategy for the future of East Lothian to 2024 and beyond, as well as a detailed policy framework for guiding development. The Proposed Local

Development Plan sets out the Council's settled view of where new development should and should not occur, including housing, education, economic and retail development, new transport links, and other infrastructure. The Schedule 4 responses to comments on the plan during its period of representation are before Council at its meeting of 28 March 2017 for approval for submission together with the plan, for Examination. At this stage the Proposed LDP is the settled view of the Council as to the strategy, plans and policies for development, however, it cannot be accorded the weight of an adopted development plan.

Material to the determination of the application are the written representations to the proposals. Thirty 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;
- * the proposed development would have a detrimental impact on infrastructure in East Linton in terms of schools, doctor surgeries etc;
- * 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 congestion and a resultant road safety hazard;
- * the alterations to the access junction into the development would be dangerous;
- * the size of the development is too large for the site and is inappropriate;
- * the scale and design of the proposed houses would be out of keeping with those of Andrew Meikle Grove;
- * there is a difference in the height of the land compared to that of the housing development of Andrew Meikle Grove;
- * the site is high visible and prominent and thus the proposed development would result in harmful visual impact both to and from East Linton;
- * there is no proposal for a play area;
- * trains and buses are at capacity;
- * bus service is poor so more reliability on the car; and
- * there would be a harmful impact on great crested newts.

Dunpender Community Council, as a consultee on the application object to the proposed development on the grounds that:

- * they do not want to see large scale development imposed upon East Linton;
- * they consider the proposed development to be too large scale;
- * they believe that the impact of so many new houses built at once would put undue pressure on existing services and infrastructure both within East Linton and in the wider area;
- * they consider the proposed development does not take account of the need to protect great crested newts;
- * they believe that agricultural land should be retained where possible, unless there is no suitable alternative, and that other potential sites for suitable redevelopment may already exist in the Community Council area e.g. Tynninghame Links steading ;
- * they believe that the proposed development would impact negatively on the visual aspect and character of East Linton; and
- * they do not believe that the existing access/egress point for the proposed development is suitable even with traffic calming measures in place.

The impact of the proposal on capacity of doctor's surgeries is primarily a matter for the NHS. Notwithstanding this, the NHS was consulted on the Proposed LDP of which the site forms part and confirmed that the issue for GP surgeries is generally not accommodation but having sufficient staffing, which is not a material consideration in the determination of a planning application.

Following the Council's approval of the Proposed Local Development Plan, where an application for planning permission or planning permission in principle is for a site of that Proposed Plan, 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 DR8 of the Proposed Local Development Plan, the Council recognises its potential for residential development. Proposal DR8 allocates the site for a residential development of circa 100 homes. It is therefore appropriate to determine this application with due consideration of that recognised residential potential, subject to the above considerations and assessments, particularly in respect of cumulative impact considerations of Scottish Planning Policy on prematurity and prejudice to the Proposed LDP.

The Council's Legal Services has previously advised that previous planning case law confirms that a planning authority has two distinct obligations - to prepare development plans and to determine applications for planning permission and other statutory consents. One function should not be subservient to the other. Where an application stands to be determined and there are at the same time corresponding objections to a proposed Local Development Plan, as happens to be the case in this instance, the authority should still decide the application but must demonstrate that in so doing it took into account the nature of the corresponding objections.

The Committee may wish to note that, separate to the representations to this planning application, there have been four objections to the Proposed Local Development Plan in

respect of Proposal DR8. The main grounds of objection to Proposal DR8 reflect those voiced by objectors above.

In being a site of the Proposed LDP the application site is an integral part of the group of sites which the Council's settled view recognises as having the potential to meet, cumulatively, the SPP and SESplan requirements of an effective five year housing land supply. This is a material consideration to be weighed against the considerations of national, strategic and local planning policy.

In respect of the considerations of Scottish Planning Policy: 2014 on prematurity and prejudice to the plan, Proposal DR8, the Examination of the LDP will consider the unresolved representations to the proposed strategy, sites and policies of the plan. The plan sets out a Compact Growth strategy in which development is concentrated to the west of the East Lothian strategic development area, however, sites are also allocated outwith the west and the SDA to reflect marketable and effective sites which fulfil part of the housing need and demand in the East Lothian area. If the Reporter's findings from the Examination were to be to modify the compact strategy, other sites such as this one would play a more significant role in providing for an effective five years housing land supply. In both scale and location, the site should therefore be considered appropriate for development at this time without predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan.

The primary material considerations in the determination of this application are therefore: whether or not the proposed development accords with development plan policy and other supplementary planning guidance; 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; and if not, whether there are material considerations that outweigh any conflict with the development plan and other planning guidance.

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.

Local Plan Policy DC1 (Development in the Countryside and Undeveloped Coast) provides the detailed context for the consideration of development proposals in East Lothian's countryside and coast. It presumes against new housing in the countryside other than where it has an operational requirement relating to an appropriate countryside business. It requires loss of prime agricultural land be minimised.

However, the countryside designation of the land of the site must 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, the Council's approval of the Proposed Local Development 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 Proposed LDP. 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 Proposed LDP.

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.

The site is in the control of a housebuilder who is seeking a grant of planning permission to enable development of it once any pre-development conditions are discharged. It is proposed that the development would be phased over a four year period from commencement of development. There is no evidence to suggest that the site cannot be developed in the short terms. Subject to assessment of the scale and character of the proposal and the developer agreeing to any required developer contributions, the site must therefore be considered effective and capable of contributing to the housing land supply in the short term.

In respect of prime agricultural land, the release of greenfield land for development will often result in loss of prime agricultural land. It requires to be considered whether the proposed density of development, taken in conjunction with the provision of green space for the development and the area, is such that it can be considered that the loss of prime agricultural land would be minimised.

The residential development of the site is therefore supported by the approved Proposed Local Development 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 Proposed Plan is that it is an appropriate extension of East Linton of a suitable scale.

In respect of the Proposed LDP the site is part of the allocations required to meet the housing targets from SESplan 1. As a proposed site for allocation it does not conflict with the Council's settled view of where development should take place. Whilst Examination of the plan will consider unresolved representations objecting to the proposed Compact Growth strategy and to sites, any modification in respect of the compact strategy would likely require additional allocations in the east of East Lothian rather than removal of them.

The A199 and B1407 public roads comprise an important gateway into East Linton. In eastward views when travelling on those roads towards East Linton the village sits in a bowl in the landscape, allowing panoramic long views of the landscape of East Lothian and over the village itself, allowing appreciation not only of its historic core including the village centre and the landmark buildings of St Andrews Church and the old auction mart but also its open rural setting. As a result of the topography of the village views are also possible from within it outwards towards Traprain Law to the southwest.

The recent housing development of Andrew Meikle Grove pays due cognisance of the topography of the village by positioning single storey houses on the higher ground and being built around a central village green which allows views both over and into the village, and outwards from it to be maintained.

The land of the application site sits on higher ground than that of the village, rising upwards in a westwards direction away from it. It has a pronounced high point at its northwestern corner. Through negotiation with planning officers it is proposed that the development of the site would, as far as it can, respect the landform and topography of it, keeping areas of open space on the higher ground at the western edge of the site whilst positioning the houses on the lower slopes to better integrate the development into its landscape setting. Houses are also positioned back from the south roadside boundary of the site to help create a more rural edge on the approach into the village. Landscape planting is also proposed along part of the western boundary and along the southern boundaries of the site. This 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 East Linton. It would ensure a visually attractive approach into East Linton, with the proposed houses and flats 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 by use of in-curtilage parking to the side of houses. Elsewhere on the site 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 and flats 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 East Linton. 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.

In all of this the proposal would be an appropriate residential development of the site and whilst it would bring change to the village it would be well designed and integrated into its landscape and village settings.

The proposed housing development would provide an attractive residential environment. The houses are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses an appropriate level of privacy and residential amenity.

The proposed new houses and flats 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 East Linton.

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 east.

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

Regarding formal play provision, the Principal Amenity Officer advises that it would be more beneficial to enhance the existing play area at Memorial Park, just off School Road to the northeast of the site, with additional facilities rather than provide a new facility within the application site. The applicants have confirmed in writing that they are willing to contribute a sum of £58,421 as the amount agreed with the Council's Principal Amenity Officer for enhancement of the existing play area at Memorial Park. This contribution can be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal Agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing this appropriate developer contribution the proposal is consistent with Policy 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 Council's Access Officer advises that the core path that is located along the northern boundary of the site should be surfaced in tarmac, and that this surfacing be continued on the core path from the northeast corner of the site eastwards along the core path to where it meets the pedestrian link to the underpass that connects Andrew Meikle Grove to the rest of the village. Such a requirement can be imposed as a condition on a grant of planning permission for the proposed development, in which case there would be a safe pedestrian link from the site to the heart of the village, consistent with the provisions of Policy DP20 of the adopted East Lothian Local Plan 2008.

In respect of landscape matters the applicant has taken into consideration the comments of the Council's Policy and Projects service in the submission of revised drawings and an updated Tree Survey report and therefore advise 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 Environmental Health Service raise no objection to the proposed development, satisfied that it would not result in harm to the amenity of any neighbouring land use.

On all of these foregoing findings on matters of design, layout, open space, landscaping and amenity, and subject to the imposition of conditions, the proposed development is not inconsistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) or Policies C1, C2, DC1, DP1, DP2, DP14, DP20, DP24 and H1 of the adopted East Lothian Local Plan 2008, the Council's Design Standards for New Housing Areas and the Scottish Government Policy Statement entitled "Designing Streets".

The Council's Road Services have considered the Transport Assessment submitted with

the application and raise no objection to the proposed development, being satisfied that it would be accessed safely and would not lead to a road or pedestrian safety hazard. They advise that the proposed means of access and amount and location of parking within the site are generally acceptable and that traffic likely to be generated by the proposed development could be satisfactorily accommodated on the local road network without harm to road or pedestrian safety.

Roads Services additionally recommend that:

- * the junction of the A199 and B1407 public roads be re-designed and the existing 30 miles per hour (mph) speed limit on the B1407 public road be extended westwards, as shown on the application drawings;
- * the turning head adjacent to plots 2 and 3 on the development layout plan be extended to measure 23.5 metres in length;
- * the core path be upgraded to an adoptable standard with street lighting;
- * a visibility splay of 2.5m by 90m in both directions be provided and maintained at each of the proposed site access junctions with the B1407 public road so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface;
- * the boundary wall on the north side of the B1407 public road be realigned to meet the required visibility splay;
- * a pedestrian 'safe zone' be provided on one side of the loop road on the northwest part of the site;
- * additional visitor parking be provided at a rate as set out in the East Lothian Council Standards for Development Roads - Part 5 Parking Standards;
- * further road safety audits be submitted;
- * cycle parking be included at a rate of 1 space per flat. The parking should be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed;
- * 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.

Bog Quarry Pond, which is to the west of the application site, is a known great crested

newt breeding site. The Council's Biodiversity Officer advises that historically the pond would have been a quiet habitat for newts because it is remote from people, but however the boundary of the application site is within 150m of the pond. He advises it could be assumed that children may play in and around the quarry and that new residents will have pet cats and dogs, resulting in increased disturbance and predation of newts and that it is reasonable to consider that this would reduce the viability of the newt population in this area, or cause the species to die out locally. As great crested newts are a European Protected Species, and are rare in East Lothian, this is a significant concern.

As a result of this the Council's Biodiversity Officer and Scottish Natural Heritage (SNH) advised on the need for further information to be submitted with the application in the form of a survey and if necessary species protection information to protect great crested newts from development of the site. This further information has been submitted in the form of a 'Proposed mitigation & compensation for great crested newts' report which identifies mitigation and compensation proposals for the protection and enhancement of the newt habitat.

The Council's Biodiversity Officer and Scottish Natural Heritage have appraised this document and advise that the mitigation measures identified in the report would ensure the newt population is not harmed during the course of development of the site. The requirement for the proposed mitigation measures can be imposed as condition on a grant of planning permission for the proposed development.

SNH further recommend the creation of an additional pond(s) at Bog Quarry to create and enhance habitat for the benefit of the great crested newt population. The Council's Biodiversity Officer concurs with this recommendation and on this point advises that it is important to consider the impacts of residential areas once occupied, and not just focus on the construction impacts as the new residential population will likely include children and pets and children playing in the quarry area will likely cause disturbance to the newt habitat, whilst pet cats and dogs have an instinct to chase or hunt animals which can increase predation. He further advises that the great crested newt reports submitted with the application acknowledged that lack of pond habitat was a significant factor limiting the population of newts in this area. More disturbance to this location, as a direct result of building on the application site could compromise the population of great crested newts. Since these newts are a European Protected Species there is a need to ensure that the proposal does not reduce the viability of the population. The Council's Biodiversity Officer recommends that a financial contribution of £5,000 be secured to create additional pond habitat for great crested newts. This would help off-set the impacts of disturbance and predation by funding creation of additional breeding capacity. Preference would be given to creating new pond habitat at the Bog Quarry Pond, but alternative sites would be considered, if necessary.

Such a financial contribution 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 newt habitat enhancement the proposal is consistent with Policy DP13 of the adopted East Lothian Local Plan 2008.

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

The Council's Archaeology Officer advises that the proposed development would be situated in an area which has a good potential to contain buried archaeological remains. Because of this the Archaeology Officer recommends that a programme of archaeological works be carried out prior to the commencement of development. This

can be secured through a condition attached to a grant of planning permission for the proposed development. This approach is consistent with Planning Advice Note 2/2011: Planning and Archaeology and subject to such a condition the proposals are not contrary to Policy ENV7 of the adopted East Lothian Local Plan 2008.

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 the proposed SUDS provision is acceptable.

In respect of waste water drainage, SEPA advise that this will be discharging to the Scottish Water public sewer and Scottish Water have confirmed there is adequate capacity in their network to accommodate the proposed development.

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 East Linton Primary and Nursery School and Dunbar Grammar School.

He advises that East Linton Primary and Nursery School 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 £972,930 towards the provision of additional school accommodation at East Linton Primary and Nursery School and a contribution of £483,866 towards the provision of additional school accommodation at Dunbar Grammar School.

The required payment of a financial contribution of a total of £1,456,796 towards the provision of additional accommodation at East Linton Primary and Nursery School 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 113 residential units require to be affordable housing units. The affordable housing component of the proposed housing development is 28 units. The Economic Development & Strategic Investment Manager advises that the mix and location of affordable units to be provided on the site is acceptable. 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.

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 DR8 of the approved Proposed Local Development Plan, 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 and in that the scale and location of development would not prejudice the Proposed LDP nor be a premature decision, 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 £1,456,796 towards the provision of additional accommodation at East Linton Primary and Nursery School and Dunbar Grammar School;

(ii) secure from the applicant 28 affordable residential units within the application site or if it can be demonstrated to the Council that this, or the off-site provision of 28 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; and

(iii) secure from the applicant a financial contribution to the Council of £58,421 for the provision of additional play equipment and/or for some other enhancement of the play area at Memorial Park, East Linton, or some other agreement for this contribution; and

(iv) secure from the applicant a financial contribution to the Council of £5,000 for the provision of pond creation and enhancement of the great crested newt site at Bog Quarry Pond, or if necessary an alternative site(s) in East Lothian.

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 East Linton Primary and Nursery School and Dunbar Grammar School, the lack of provision of affordable housing, a lack of sufficient formal play provision and a lack of enhanced great crested newt habitat, contrary to, as applicable, Policies INF3, H4, C2 and DP13 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 2018/2019 - 35 residential units
Year 2019/2020 - 36 residential units
Year 2020/2021 - 36 residential units
Year 2021/2022 - 6 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 Notwithstanding that which is stated on the drawings docketed to this planning permission a detailed specification of all external finishes of the houses and flats 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 and flats 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 and flats, 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 and flats shall conform to the details so approved.

Reason:

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

- 4 Prior to the occupation of the last house or flat hereby approved, the proposed access roads, parking spaces, and footpaths shall have been constructed on site in accordance with the docketed drawings.

Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and flats and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

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.

Reason:

To ensure that adequate and satisfactory provision is made for access and for off-street parking 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) the turning head adjacent to plots 2 and 3 as shown on the docketed development layout plan shall be extended to measure 23.5 metres in length;

(ii) a pedestrian 'safe zone' shall be provided on one side of the loop road on the northwest part of the site;

(iii) additional visitor parking shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads - Part 5 Parking Standards; and

(iv) 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 Notwithstanding that which is stated on the drawings docketed to this planning permission a visibility splay of 2.5 metres by 90 metres shall be provided and maintained on each side of the new vehicular access junction with the B1404 public road so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface.

Reason:

To ensure that adequate visibility is provided at the access in the interest of highway safety.

- 7 The south roadside boundary wall on the north side of the B1407 public road shall be realigned to meet the required visibility splay in Condition 6 above; a dilapidation survey shall be carried out on the structural stability of the south roadside boundary wall over the length of the application site which shall be submitted to and approved by the Planning Authority. Where the wall is identified as being in need of upgrading or requiring rebuilding (including to provide for the visibility splay), those identified works shall be undertaken in accordance with detail of the wall upgrading/rebuilding, including samples of stone, to be submitted to and approved in advance by the Planning Authority. The works carried out shall be in accordance with the detail so approved.

Reason:

In the interests of road safety.

- 8 No residential unit shall be occupied unless and until the junction of the A199 and B1407 public roads has been re-configured and the existing 30 miles per hour (mph) speed limit on the B1407 public road has been extended westwards, which shall include the relocation of the existing 30mph/national speed limit signs and the provision of a gateway feature, all as shown on docketed drawings nos. SK 001 Rev B and SK 003 Rev C.

Reason:

In the interests of road safety.

- 9 (a) Prior to the commencement of development a Stage 2 Road Safety Audit - Detailed Design shall be submitted to and approved by the Planning Authority.

(b) Immediately following completion of the development the subject of this planning permission, the date of which shall be provided in writing to the Planning Authority, a Stage 3 Road Safety Audit - Post Opening shall be submitted to and approved by the Planning Authority.

(c) 12 months following approval of the Stage 3 Road Safety Audit a Stage 4 Road Safety Audit shall be submitted to and approved by the Planning Authority.

Reason:

In the interests of road safety.

- 10 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.

- 11 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.

- 12 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.

- 13 The core path that is located along the northern boundary of the site shall be surfaced in tarmac and brought up to an adoptable standard, and the tarmac surfacing and adoptable standard finish of it shall be continued along the core path from the northeast corner of the application site eastwards to where it meets the pedestrian link to the underpass that connects Andrew Meikle Grove to the rest of the village of East Linton. Prior to the commencement of development details of the tarmac surfacing and adoptable standard construction shall be submitted to and approved in writing in advance by the Planning Authority and such detail shall include a timetable for implementation of the surfacing works and the inclusion of street lighting.

These works shall thereafter be fully implemented in accordance with the details so approved.

Reason:

In the interests of pedestrian safety.

- 14 A timetable for the provision of the erection of the boundary enclosures for the rear gardens of the houses hereby approved shall be submitted to and approved in advance by the Planning Authority and development shall thereafter be carried out in full accordance with the timetable 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 privacy and amenity of future residents of the development and residential properties nearby.

- 15 The mitigation and compensation measures for the protection of great crested newts during the construction and operational phases of the development hereby approved shall all be carried out in strict accordance with those detailed in the 'Proposed mitigation & compensation for great crested newts' document by Technical and Safety Services docketed to this planning permission.

Reason:

In the interests of the biodiversity of the area.

- 16 The development hereby approved shall be carried out in strict accordance with the 'Tree Survey and Arboricultural Constraints' document and the Tree Protection Plan drawing no. SMH-EL-TP-01 all by Alan Motion Tree Consulting Ltd docketed to this planning permission.

The temporary protective fencing as shown to be erected on drawing no. SMH-EL-TP-01 must be fixed in situ, erected prior to the commencement of development and be retained on site and intact through to completion of development. 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.

- 17 All new planting as shown on docketed drawings nos. 127.85.01a, 127.85.02b, 127.85.03b, 127.85.04b and 127.85.05b 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.

All the new planting shall be maintained in accordance with the maintenance programme as detailed on docketed drawing no. 127.85.01a.

Reason:

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

- 18 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 or flat on the site.

The open space recreation areas, when provided, shall be used for such purposes at all times thereafter unless otherwise 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.

- 19 No development shall take place until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work (Trial Trench Evaluation (10%)) 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.

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

Reason:

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