

**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

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Application No. **16/00393/PM**

Proposal                      Erection of 74 houses, 24 flats and associated works

Location                     **Pinkie Mains  
Pinkie Road  
Musselburgh  
East Lothian  
EH21 7TY**

Applicant                    Taylor Wimpey East Scotland

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

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

As a statutory requirement of major development type proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 15/00008/PAN) and thus of community consultation prior to this application for planning permission 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 20 people attended the pre-application public exhibition, which was held at the Musselburgh East Community Learning Centre on 01 October 2015, and that those attendees raised a number of issues 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 has an area of some 4.5 hectares and is located on the southwest part of the 23.9 hectares Pinkie Mains housing site, to the south of Pinkie Road, Musselburgh.

The site is bounded to the north and northeast by the remainder of the Pinkie Mains housing site, to the west by residential properties on the eastern side of Pinkie Terrace and to the south and east by agricultural land. That agricultural land is within the Edinburgh Green Belt. Immediately to the south of the site is a public right of way and core path, known as the "Drift", that runs between Pinkie Terrace and Wallyford railway station. A number of mature trees are also located in close proximity to the application site.

Planning permission in principle (Ref: 08/01090/OUT) was granted in November 2011 for residential development, a shop and associated infrastructure provision on the 23.9 hectares of land. The Masterplan docketed to planning permission in principle 08/01090/OUT indicates how a total of 600 residential units could be accommodated on the site. Notwithstanding this, planning permission in principle 08/01090/OUT was granted subject to conditions, including a condition restricting the total number of houses to be erected on the land to no more than 473. The reason for this limit was to ensure that the number of houses erected on the site accords with the strategic housing land supply for the Musselburgh area and to ensure that there is sufficient education capacity.

In March 2012 approval of matters specified in conditions (Ref: 11/00974/AMM) was granted for the erection of 413 houses, 60 flats and associated works on most of the site the subject of planning permission in principle 08/01090/OUT. Consistent with the grant of planning permission in principle 08/01090/OUT, the approved means of access to the 413 houses and 60 flats from Pinkie Road is taken at two new access points, one being a priority junction shown to be positioned close to the northeast corner of the site, the other a priority junction shown to be positioned close to the northwest corner of the site. The approved development includes a large central area of open space, to be known as Pinkie Mains Park.

In July 2012 approval of matters specified in conditions (Ref: 12/00559/AMC) was granted for the erection of 36 houses, as change to the development defined as plots 71-73, 94-98 and 103-139 of approval of matters specified in conditions 11/00974/AMM. The approved house type substitutions included a reduction in the number of approved residential units on this part of the 23.9 hectares of land from 46 to 36. This reduces the overall number of approved residential units for the 23.9 hectares of land of the Proposal H4 allocated housing site from 473 to 463.

In October 2013 approval of matters specified in conditions (Ref: 13/00636/AMC) was granted for the erection of 22 houses, as changes to the development defined as plots 1-15 and 55-70 of approval of matters specified in conditions 11/00974/AMM. The approved house type substitutions included a reduction in the number of approved residential units on this part of the 23.9 hectares of land from 31 to 22. This further reduces the overall number of approved residential units for the 23.9 hectares of land of the Proposal H4 allocated housing site from 463 to 454.

Taylor Wimpey has since completed part of the development of their land at Pinkie Mains, with many of the residential units built and occupied. They have completed all of

the 58 houses granted by approval of matters specified in conditions 12/00559/AMC and 13/00636/AMC. Thus, whilst approval (Ref: 11/00974/AMM) was originally granted for a total of 77 houses on that part of the site, only a total of 58 houses have been built. Through development of the 58 houses there is no remaining residual land within that part of the site on which another 19 residential units could now be built.

In January 2017 planning permission (Ref: 16/00392/P) was granted for the erection of 19 houses on the southern part of the 23.9 hectares Pinkie Mains housing site. The 19 houses were promoted as a substitution for the 19 houses that have not been erected as a result of the design changes granted by approval of matters specified in conditions 12/00559/AMC and 13/00636/AMC. Development of the 19 houses has not commenced.

Planning permission is now sought for the erection of 74 houses and 24 flats on land adjacent to the site of planning permission 16/00392/P. The application site also forms part of the 23.9 hectares Pinkie Mains housing site.

The site plan shows how the proposed 74 houses and 24 flats would be accommodated on the site along with associated access roads, parking areas, landscaping and open space. The proposed open space includes the southern part of the proposed Pinkie Mains Park. The houses would comprise of a mix of detached, semi-detached and terraced two storey houses. Of the 74 houses, 30 would be detached, 26 semi-detached and 18 terraced. The 24 flats would be contained within two, three storey, flatted buildings, both of which would contain 12 flats. In terms of size, 8 of the proposed 98 residential units would contain 1 bedroom, 34 would contain 2 bedrooms, 29 would contain 3 bedrooms, and 27 would contain 4 bedrooms. Of the 98 residential units there would be a total of 74 private houses for sale. The residential units would comprise of 19 different house types, including the provision of 24 affordable housing units, each of which would be flatted.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On the 10 March 2017 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. 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.

The proposed residential units would be accessed by a continuation of the access roads already approved for the Pinkie Mains housing site.

Since the registration of the application revised site layout plans, landscaping plans and boundary enclosure plans have been submitted. Additionally a revised aboricultural report, a residential travel plan, a construction method statement, a drainage strategy drawing and SUDS report, and a Mineral Risk Assessment Survey have been submitted subsequent to the registration of the application.

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), (Housing Land Flexibility) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Proposal H4 (Pinkie Mains) and Policies DP1 (Landscape and Streetscape Character), DP2 (Design), DP3 (Housing Density), DP4 (Design Statements), DP5 (Major 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), INF3 (Infrastructure and Facilities Provision), H1 (Housing Quality and Design), H2 (Development Frameworks), H4 (Affordable Housing), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

A material consideration in the determination of the application is the supplementary planning guidance of "Design Standards for New Housing Areas" approved by the Council on 10 March 2008. This guidance requires that a more flexible approach be taken in road layout and design for proposed housing developments and sets core design requirements for the creation of new urban structures that will support Home Zone development as well as establishing design requirements for the layout of and space between buildings. Developers must provide adequate information to the satisfaction of the Council to demonstrate the merits of their design.

Also material to the determination of the application is Scottish Government Advice given in Planning Advice Note 67: Housing Quality.

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

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

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

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

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

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

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

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

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

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 where new development should and should not occur, including housing, education, economic and retail development, new transport links, and other infrastructure.

The land of the site is identified as Proposal MH7 (Pinkie Mains, Musselburgh (Intensification)) of the Proposed Local Development Plan.

Proposal MH7 states that "the principle of intensifying the capacity for housing development at Pinkie Mains, Musselburgh by approximately a further 130 homes is supported provided proposals conform to the Council approved masterplan for the site which is under construction. Any development here is subject to the mitigation of any development related impacts, including on a proportionate basis for any cumulative impacts with other proposals including on the transport network, on education and community facilities, and on air quality as appropriate".

The Committee may wish to note that there have been no representations to the Proposed Local Development Plan in respect of Proposal MH7.

There is no public objection to the planning application.

Musselburgh Community Council were consulted on the planning application but did not provide any comments on it.

The application site is part of a larger area of land covered by Proposal H4 (Pinkie Mains) of the adopted East Lothian Local Plan 2008. Proposal H4 allocates the land for a development of approximately 450 houses with associated infrastructure provision. Thus it is designated a strategic housing site.

Proposal H4 requires the Council to prepare a Development Framework addressing the development requirements of the site and for a prospective developer to submit for approval a masterplan consistent with that Framework and with the Local Plan's development policies prior to or as part of an application for planning permission in principle or planning permission for a development of the site.

Proposal H4 reflects the requirements of Policy H2 (Development Frameworks) of the adopted East Lothian Local Plan 2008, which states that development proposals for strategic housing sites must conform to the relevant Development Framework.

A Development Framework for the site was approved by the Council at a meeting of Cabinet on the 11 November 2008. It sets out how the Council requires the site to be developed in terms of design and infrastructure provision. The Development Framework submitted with the application is a material consideration in the determination of this application for planning permission.

The principle of the housing development of the application site is established by the allocation of the land for residential development by Proposal H4 of the adopted East Lothian Local Plan 2008 and by planning permission in principle 08/01090/OUT.

When previous planning application 08/01090/OUT was determined, it was accepted by the Council that the masterplan of the site as approved for 473 housing units demonstrated that more than 473 residential units could be acceptably accommodated on the site.

In respect of that previous planning permission in principle the Council's Executive Director of Education and Children's Services advised that the impact on education capacity was assessed on the basis of the 473 residential units then applied for and that therefore to ensure sufficient education capacity no more than 473 residential units should be approved. At the time the applicant agreed to those limits and the applications were approved on that basis.

That number of residential units also reflected the strategic housing requirements of the

then current strategic development plan, the approved Edinburgh and the Lothians Structure Plan 2015 and Proposal H4 of the adopted East Lothian Local Plan 2008. The Structure Plan is now revoked and replaced by SESplan following final Ministerial approval of its Supplementary Planning Guidance on Housing Land last year. SESplan Policy 5 together with the Supplementary Guidance sets a housing target for East Lothian of some 10,500 houses over the period to 2024. East Lothian Council has accepted in the determination of applications for housing development on sites not allocated for housing development that there is a shortfall in the housing land supply such that there is not an effective five year housing land supply for the area, as required by Policy 5 of SESplan and by Scottish Planning Policy: June 2014. Policy 7 of SESplan sets out criteria for development of green field sites to contribute to maintaining an effective five year housing land supply.

The proposed development would make a contribution towards the shortfall in the housing land supply. Moreover, the development proposed is not so substantial, and its cumulative effect would not be so significant, that to grant planning 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. Moreover, the proposed development is not premature, as the site is already allocated for housing development in the adopted East Lothian Local Plan 2008. On these considerations the proposal is consistent with paragraph 34 of Scottish Planning Policy.

Notwithstanding this, an important material consideration in the determination of this application is whether in making use of additional land within the Pinkie Mains housing site, the proposals conform to the approved masterplan for the site, and whether it complies with the objectives and requirements of the approved Development Framework.

A masterplan for the whole of the Pinkie Mains housing site was approved through the grant of planning permission in principle 08/01090/OUT. The development now proposed is consistent with the approved masterplan for the site.

The proposed erection of 74 houses and 24 flats would not cause any incongruous change to the architectural harmony, integrity and character of the scheme of housing development approved for the site. The proposed use of render for the walls of the houses and flats would be consistent with the remainder of the Pinkie Mains housing development, where render is the predominant external wall finish.

In their generally simple architectural form and subject to control over their finishes the proposed houses and flats would, by their size, height, design, finishes and layout integrate and sit comfortably with the built architectural form and layout of the existing housing of the area and with the scheme of housing development already approved for the Pinkie Mains site. The other components of the proposed development, including car parking, roads and open space, would be in keeping with the character of the settlement and the local area.

The site is capable of accommodating all of the proposed development including vehicular and pedestrian access without being an overdevelopment of it. The proposed houses and flats would be laid out in such a way as to give an acceptable standard of residential amenity to their future occupants. The proposed houses and flats would be so sited, orientated and screened such as not to harm the privacy and amenity of neighbouring residential properties.

The Council's Environmental Health Manager raises no objection to the principle of housing development of the application site.

The scheme of development has been amended to take account of concerns raised by the Council's landscape project officer. She raises no objection to the proposed development, advising that the landscaping proposals are now acceptable.

The Council's Principal Amenity Officer raises no objection to the proposed development, being satisfied that the proposed open space would be sufficient to serve a development of residential units. On this consideration the proposed development is consistent with Policy C1 of the adopted East Lothian Local Plan 2008.

The applicant is proposing to form an informal play area within the application site. The play area, which will include tunnels, areas of mounding and timber sleepers, has been amended to increase play value. The Council's landscape project officer is satisfied with the proposed play area. If planning permission is to be granted for the residential development of the site then a condition could be imposed to require that the play area be installed in accordance with a timetable to be submitted to and approved by the Planning Authority. Subject to the imposition of this planning condition, the proposed development is consistent with Policy C2 of the adopted East Lothian Local Plan 2008.

The Council's Road Services advises that the proposed site is included within the Proposed Local Development Plan and was included within the East Lothian Council Transport Appraisal to determine the cumulative impacts of development on both the strategic and local road network. The model highlighted that the development of this site will have a cumulative impact on the wider strategic road network, however, it can be accommodated within the local road network in terms of road capacity. A Transport Assessment was also completed and looked at the future sustainable travel demand against the existing provision in the area.

The Council's Transport Appraisal (TA) informed the Council's draft Developer Contributions Framework (DCF) and has been produced in conjunction with the Local Development Plan TA so that Road Services can assess the cumulative impacts of the Local Development Plan allocations on the Transport Network. The TA has identified a number of hot spots on the network which require interventions to mitigate against the Local Development Plan and was included within the East Lothian Council Transport Appraisal setting out the appropriate contribution levels for each of the Local Development Plan sites.

For the Pinkie Mains site the requirement for developer contributions towards each intervention as identified through the above process is as follows (the works are detailed in the Transport Appraisal, references given here are to the Proposed Local Development Plan proposals, for information on the types of works):

- \* Proposal T3 active travel corridor - £44,451
- \* Proposal T15 improvements to Old Craighall junction - £228.34
- \* Proposal T17 improvements to Salters Road Interchange and Bankton Interchange - £8,956 and £444
- \* Proposals T9 and T10 improvements to the rail network - £4,236
- \* Proposal T21 Musselburgh town centre improvements - £20,768
- \* Proposals T27 and T28 Tranent town centre improvements – £35,864

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £114,947.

In respect of the matters above, Transport Scotland advise that they have concern in regard to the development impact on the junction of the A1 trunk road and the A720



trunk road (i.e. the Old Craighall Junction south of Musselburgh, at the western end of East Lothian). In this regard they have sought a contribution from the developer towards mitigation of this perceived impact. The applicant, Taylor Wimpey is willing to pay Transport Scotland a sum of £228.34 towards the upgrade of the Old Craighall junction, that amount being calculated by them from the figures given in the Council's draft developer contributions framework. They have provided the Council with a formal legal undertaking from their company solicitor that they will make this payment to Transport Scotland prior to the Council signing the section 75 Agreement. Transport Scotland are content with this approach and, on this basis, raise no objection to the impact of the development on the Old Craighall junction.

Network Rail advises that the proposal will contribute to a cumulative impact on Wallyford Station and on local rail services within East Lothian and that mitigation of the impact of the development is required in accordance with the evidence base informing East Lothian Council's Draft Developer Contributions Framework. Network Rail's Scotland Route Study 2016 and its Market Study of local and long distance journeys identify for the routes between North Berwick, Drem and Edinburgh Waverley that ScotRail services will exceed 100 per cent of seating capacity (assumed to be six carriage trains) in the peak hour by the time they reach Edinburgh Waverley. The provision of two new tracks to form passing loops via new flat junctions between Prestonpans and Drem stations would allow local passenger and freight services to utilise new track between Prestonpans and Drem in order that long distance non-stopping services can overtake slower trains on this section of the East Coast Main Line. This intervention will substantially increase timetable flexibility and contributes towards additional services, as well as providing regulating capacity for freight services between Drem Junction and Millerhill. Contributions secured from developers in this area should be channelled to this project to help secure additional local rail services and capacity for the East Lothian Council area. The indicative costs of this project will be between £125m - £300m. In accordance with this and the evidence base of East Lothian Council's Draft Developer Contributions Framework Network Rail therefore seeks a developer contribution of £4,236. Again the applicant have provided the Council with a formal legal undertaking from their company solicitor that they will make this payment to Network Rail prior to the Council signing the section 75 Agreement. Network Rail are content with this approach and, on this basis, raise no objection to the impact of the development on the rail network.

With allowance for the amount covered by the formal legal undertakings for payment to Transport Scotland and to Network Rail, the developer contributions towards these other required interventions of £110,482.66 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 these transport interventions 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.

The Council's Road Services raise no objections to the proposed development, being satisfied with proposals for site access and car parking.

Road Services do however raise concern that traffic likely to be generated by the proposed development could lead to extra pressure on traffic flows at Musselburgh High Street and the Dolphingstone Interchange. However Roads Services has not provided any evidence at this time to demonstrate that would indeed be the case.

Road Services recommend that:

- \* the proposed footpaths running through the proposed Pinkie Mains Park shall form part of the safer routes to school network whilst providing direct line access to the existing community. The footpaths should therefore be constructed to an adoptable standard, including street lighting. These footpaths should be constructed prior to the occupation of any dwellings to the south east of the proposed Pinkie Mains Park, unless otherwise approved in writing by the Planning Authority;
- \* the footpath immediately to the south of the application site, known as the "Drift", shall be constructed to an adoptable standard, including street lighting, along the extent of it between Pinkie Terrace and the east coast main line under bridge. This footpath shall form a potential new route to the proposed High School in Wallyford and a vital link between the two communities. Connections should also be provided to this route from the two cul-de-sacs at the southern tip of the development;
- \* the proposed remote footpaths running to the "Drift" on the southern site boundary and to Pinkie Terrace shall form part of the public footpath network and shall provide a link to the existing community and a route to Wallyford train station. The footpaths should therefore be constructed to an adoptable standard, including street lighting;
- \* raised tables should be included at all the junctions on the Main Road to reduce vehicle speeds within the development;
- \* the junction at Plot 568 should have some form of entry treatment as per the others within the development. This treatment should provide footway connectors to the shared surface areas;
- \* cycle parking should be included at a rate of one space per flat. The parking should be in the form of 1 locker per flat or communal provision in the form of a lockable room or shed;
- \* the existing footways on Pinkie Terrace shall be extended around the corner into the car park at the south west corner to provide suitable crossing point for all users;
- \* driveways 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 11m 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;
- \* all footpath connections from a zone under construction to the existing settlement shall be constructed to an adoptable standard before the occupation of any units in that particular zone;
- \* a Travel Plan be submitted to and approved by the Planning Authority. 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 the issues raised by Roads Services, the proposed development does not conflict with Policies DP20, DP22, DP24, T1 and T2 of the adopted East Lothian Local Plan 2008.

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

The Council's Deputy Chief Executive (Resources and People Services) informs that the application site is located within the school catchment areas of Pinkie St Peters Primary and Nursery School and Musselburgh Grammar School.

He advises that both Pinkie St Peters Primary and Nursery School and Musselburgh 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 £659,442 towards the provision of additional school accommodation at Pinkie St Peters Primary and Nursery School and a contribution of £399,154 towards the provision of secondary education capacity in Musselburgh.

The required payment of a financial contribution of a total of £1,058,596 (£10,802 per unit) towards the provision of additional accommodation at Pinkie St Peters Primary and Nursery School and towards the provision of secondary education capacity in Musselburgh 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. Moreover the Depute Chief Executive (Resources and People Services) recommends that a restriction would need to be placed on the annual completion rates arising from the proposed development. This can be secured through a condition attached to a grant of planning permission for the proposed development. Subject to the imposition of the aforementioned requirements 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 98 residential units require to be affordable housing units. The affordable housing component of the proposed housing development is 25 units. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant is willing to do, the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

The Scottish Environment Protection Agency and the Council's Structures, Flooding and Street Lighting Manager are both satisfied with the proposed drainage strategy for the site. They both raise no objection to the proposed development.

The Council's Structures, Flooding and Street Lighting Manager raises no objection to the proposed development.

Scottish Water were consulted on the planning application but have not provided a consultation response.

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.

The proposed erection of 74 houses and 24 flats does not conflict with Policies 1B, 5 and 7 of the approved South East Scotland Strategic Development Plan (SEsplan) or with Proposal H4 or Policies H1, H2, H4, INF3,C1, C2, DP1, DP2, DP4, DP5, DP14, DP17, DP20, DP22, DP24, T1 and T2 of the adopted East Lothian Local Plan 2008. The proposed development is also consistent with the supplementary planning guidance of "Design Standards for New Housing Areas" approved by the Council on 10 March 2008, Planning Advice Note 67, Scottish Planning Policy: June 2014, the approved Development Framework for the site.

## 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 secure from the applicant:

(i) a financial contribution to the Council of £1,058,596 (£10,802 per unit) towards the provision of additional accommodation at Pinkie St Peters Primary and Nursery School and towards the provision of secondary education capacity in Musselburgh;

(ii) secure from the applicant 25 affordable residential units within the application site or if it can be demonstrated to the Council that this, or the off-site provision of 25 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) a financial contribution to the Council for £110,482.66 towards the provision of road improvements to Salters Road Interchange and Bankton Interchange, Musselburgh and Tranent town centre improvements and towards the development of an active travel corridor.

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 Pinkie St Peters Primary and Nursery School and Musselburgh Grammar School, the lack of provision of affordable housing, and the lack of road and transport infrastructure improvements, contrary to, as applicable, Policies INF3 and H4 of the adopted East Lothian Local Plan 2008.

## CONDITIONS

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

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

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 Housing completions on the application site and on the adjacent site the subject of planning permission 16/00392/P in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion rates:

Year 2017/2018	-	35 residential units
Year 2018/2019	-	35 residential units
Year 2019/2020	-	35 residential units
Year 2020/2021	-	12 residential units

If less than the specified number of residential units are completed in any one year then those shall be completed instead at Year 2020/2021 or beyond and not added to the subsequent Year.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 3 A timetable for the provision of the erection of the 1.8 metre high 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.

- 4 All the open space recreation areas indicated on the docketed drawings 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 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

- 5 A timetable for the installation of the play area 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 play area in the interest of the amenity of future residents of the development.

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

Reason:

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

- 7 No trees or shrubs, which are shown to be retained on the site as detailed on the drawings docketed to this planning permission, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the prior written consent of the Planning Authority.

Reason:

To ensure the retention of trees that make a positive contribution to the character and appearance of the area.

- 8 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837\_2012 "Trees in relation to design, demolition and construction" has been installed, approved by the arboriculturist and confirmed in writing by the Planning Authority. The fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing must be as indicated on the drawings docketed to this planning permission, should be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and approved in writing by the Planning Authority.

All weather notices should be erected on said fencing with words such as "Construction exclusion zone - Keep out". Within the fenced off areas creating the Construction Exclusion Zones the following prohibitions must 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
- \_ No handling discharge or spillage of any chemical substance, including cement washings

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.

Details of any trenches or services in the fenced off areas shall require the prior consent of the Planning Authority and all trenches shall be dug and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Any surfacing within the Root Protection Area must be carried out in strict accordance with section 7.4 of BS5837: 2012 "Trees in relation to design, demolition and construction ~ Recommendations".

Reason

In order to form Construction Exclusion Zones around retained trees and protect retained trees from damage.

- 9 No development shall take place on site until a person who has, through relevant education, training and experience, gained recognised qualifications and expertise in the field of trees in

relation to construction, been employed by the developer to monitor any works in close proximity of trees on the site including the installation of the 'Terram' cellular confinement system and the installation and maintenance of temporary protective fencing. All tree work should be carried out in accordance with BS3998: 1989 'Recommendations for Tree Work' and must be approved in writing by the Planning Authority before work is carried out.

- 10 All planting comprised on the drawings docketed to this planning permission shall be carried out in the first planting season following the occupation or completion of any part of the development hereby approved, 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 species and final size, unless the Planning Authority gives written consent to any variation.

Reason:

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

- 11 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.

- 12 The development of the site shall be carried out in accordance with the Construction Method Statement that is docketed to this planning permission.

Reason:

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

- 13 A copy of the docketed Residential Travel Pack shall be distributed to every house and flat hereby approved.

Reason:

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

- 14 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.

Reason:

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

- 15 The footpaths running through the area delineated on the docketed drawings as being Pinkie Mains Park shall include street lighting and shall be made up to an adoptable standard. These footpaths shall be constructed in accordance with the requirements of this conditions, and made available for use prior to the occupation of any dwelling to the south east of the Pinkie Mains Park, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of road safety.

- 16 The proposed remote footpaths, running to the external remote footpath on the southern site boundary that is known as "The Drift", and to Pinkie Terrace, shall be constructed to an adoptable standard, including street lighting. Details of the footpaths, together with a timetable for their formation, 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.

- 17 The external remote footpath on the southern site boundary that is referred to locally as "The Drift" shall be constructed to an adoptable standard including street lighting along the extent of it between Pinkie Terrace and the East Coast Main Line under bridge. Connections shall also be provided to this route from the 2 cul-de-sacs at the southern tip of the development.

Within one month from the date of this planning permission, details of the works to "The Drift" footpath, including a timetable for their implementation, shall be submitted to and approved by the Planning Authority.

Development shall thereafter be carried out in accordance with the details so approved.

Reason:  
In the interest of road safety.

- 18 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 junction at Plot 568 should have some form of entry treatment as per the others within the development. This treatment should provide footway connectors to the shared surface areas;

ii) cycle parking shall be included at a rate of one space per flat. The parking should be in the form of 1 locker per flat or communal provision in the form of a lockable room or shed;

iii) the existing footways on Pinkie Terrace shall be extended around the corner into the car park at the south west corner to provide suitable crossing point for all users;

iv) driveways 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 11m 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;

v) all footpath connections from a zone under construction to the existing settlement shall be constructed to an adoptable standard before the occupation of any units in that particular zone;

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

Reason:  
In the interests of road and pedestrian safety.



**Letters From**

There were no representations received for this application.