

REPORT TO: Planning Committee
MEETING DATE: Tuesday 6 June 2017
BY: Depute Chief Executive (Partnership and Community Services)
SUBJECT: Application for Planning Permission for Consideration

1

Application No. 16/00594/PPM
Proposal Planning permission in principle for residential development, school campus land, open space and ancillary works
Location Land At Saltcoats Field
Gullane
East Lothian
Applicant CALA Management Ltd
Per Apt Planning & Development Ltd

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.

As a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 16/00004/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 200 people attended the pre-application public exhibition, which was held over two days at The Golf Inn, Main Street, Gullane on 18 and 19 March 2016, and that those attendees made a number of queries and suggestions regarding the proposals. The development for which planning permission in principle is now

sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

The application site is an area of agricultural land in the East Lothian countryside, located on the southern side of Gullane. It is some 13.5 hectares in area and is roughly rectangular 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 north by Muirfield Grove, Muirfield Gardens, the grounds of Gullane Primary School and the eastern part of a larger area of woodland known as Millennium Wood, to the east by the C111 public road and to the south and west by agricultural land.

Planning permission in principle is sought through this application for a residential development of the application site with associated works and for an expansion of the school campus land of Gullane Primary School.

An indicative masterplan has been submitted with the application indicating how some 150 residential units could be accommodated on the application site.

It is also indicated that a SUDS pond be accommodated on the southern part of the site at its eastern end and how areas of recreational open space could be formed throughout the site incorporating a series of path networks. It is also indicated how footpath linkages from the site onto the C111 public road to the east and links to the south and west could be formed and how landscape and woodland planting could be undertaken.

The indicative masterplan indicates that access to the site could be taken from two new access points from the C111 public road.

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

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

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

Policies 1B (The Spatial Strategy), 5 (Housing Land) 6 (Housing Land Flexibility) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies NH1a (Internationally Protected

Areas), DP1 (Landscape and Streetscape Character), DP13 (Biodiversity and Development Sites), DP14 (Trees on or Adjacent to Development Sites), DP17 (Art Works-Percent for Art), DP20 (Pedestrians and Cyclists), ENV3 (Listed Buildings), INF3 (Infrastructure and Facilities Provision), 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.

Material to the determination of the application are Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: June 2014.

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

Scottish Planning Policy states proposals for development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area.

One of the main Outcomes of Scottish Planning Policy is to create successful, sustainable places 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.

A 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. In assessing this, 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 is to be applied where a development plan is more than five years old.

The adopted East Lothian Local Plan is more than five years old.

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 approved the 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. This Interim Guidance reflects the principles of Policy 7 of SESplan and is a material consideration in the determination of this application for planning permission in principle.

In respect of development plans, 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 development 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.

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. It sets out a generous housing land supply to meet the requirements of Scottish Planning Policy and SESplan.

The Schedule 4 responses to comments on the plan during its period of representation were approved by Council at its meeting of 28 March 2017 and have been submitted, together with the plan, for Examination.

At this stage the Proposed Local Development Plan is the settled view of the Council as to the strategy, plans and policies for development. It is a material consideration in the determination of planning applications, however, as it remains subject to Examination it cannot be accorded the weight of an adopted development plan.

In Paragraph 34 of Scottish Planning Policy it is stated 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 (in this case the Proposed Local Development Plan). Scottish Planning Policy goes on to state that 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.

In respect of the above provision of Scottish Planning Policy it must therefore be considered whether or not the site under consideration is of a scale, location or phasing that is central to the Proposed Local Development Plan and whether a grant of planning permission in principle would, in this instance, undermine the plan making process and therefore be considered premature.

Also material to the determination of the application are the written representations to the proposals. A total of 433 written objections have been received. Copies of the written objections are contained in a shared electronic folder to which all Members of the Committee have access.

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

- * it would result in the loss of agricultural land;
- * it would compromise delivery of housing on the former fire service training school;

- * it would lead to additional traffic generation that would be too much for the local road network to cope with resulting in a road, cyclist and pedestrian safety hazard;
- * it would lead to parking problems in Gullane;
- * it would lead to flooding, sewerage and drainage problems;
- * it would harmfully impact on local infrastructure in terms of school and healthcare capacity and community facilities;
- * it would be contrary to Policy DC1 of the adopted East Lothian Local Plan 2008;
- * it would not follow the pattern of development of the village;
- * it would result in an overdevelopment of the site, disproportionate to the size of the village and would destroy its character;
- * it would harmfully impact on tourism;
- * it would prejudice the Local Development Plan;
- * it would not be sustainable as it would result in more car journeys and there is no employment to serve it in Gullane;
- * it is too far from shops, services, bus stops and railway stations;
- * the existing public transport network is currently full and cannot accommodate it;
- * it would lead to noise and disruption;
- * it would be a threat to biodiversity and would displace pink footed geese;
- * it would harmfully impact on Gullane Conservation Area;
- * it would harmfully change the existing landscape character of the area;
- * it should include for much needed affordable housing;
- * it would impact on police and fire service resources; and
- * it would be development in the green belt.

Contrary to what is stated in written objections the site is not part of the Green Belt.

Some of the objections state there are few employment opportunities in Gullane and most future occupiers of the houses would have to commute to Edinburgh. The Local Development Plan recognises Edinburgh as an important source of employment, however, there are some employment opportunities in Gullane and the wider area, and home working is a growing trend.

It should be noted that in terms of the existing medical practice in Gullane, NHS Lothian was consulted during the preparation of the Local Development Plan and advised there was sufficient accommodation within Gullane Medical Practice to accommodate additional GP services. Therefore the capacity of the existing practice building is capable

of accommodating the levels of growth set out in the Proposed Local Development Plan.

East Lothian Council's Team Leader for Community Learning and Development was consulted in the preparation of the Local Development Plan, and identified that there was no requirement for additional community centres in Gullane, satisfied there was sufficient community space.

Annex B of the Scottish Government's Planning Advice Note 75: Planning for Transport recommends a threshold of 1600m for walking distance to local facilities. The application site is within this distance of the school, the medical centre and many shops and other facilities within Gullane.

The recommended guidelines in Planning Advice Note 75 for accessibility of housing to public transport are less than 400m to bus services and up to 800m to rail services. Although the site is outwith these guideline distances, future occupants would be capable of accessing bus services to Edinburgh and North Berwick on foot.

Gullane Area Community Council, as a consultee on the application, objects to the proposed development. The Community Council mainly objects to the proposed development on the grounds that:

- * the location of the site makes it unsustainable;
- * they consider it to be too large scale;
- * it constitutes development in the countryside contrary to Policy DC1 of the adopted East Lothian Local Plan 2008;
- * it would lead to cumulative impacts harmful to Gullane;
- * it would not minimise travel by car;
- * it would prejudice the Local Development Plan;
- * it would prejudice brownfield site delivery;
- * the site has limited access to public transport;
- * it would impact on views to Saltcoats Castle, a Scheduled Monument;
- * it may impact on listed buildings at West Fenton;
- * it may cause a road and pedestrian safety hazard;
- * it would lead to cumulative impact on sewerage;
- * community facilities do not have the capacity to cater for it; and
- * it would have a detrimental impact on infrastructure in Gullane in terms of schools and doctor surgeries.

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 facilities and other essential infrastructure. Consideration must also be given to the objections to the application and the relevant representations to the Proposed Local Development Plan.

In that the site now under consideration is housing site NK7 of the Proposed Local Development Plan, the Council recognises its potential for residential development. Proposal NK7 allocates the site for a residential development of circa 130 homes.

The Council's Legal Services has previously advised that 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 applicants have confirmed that they wish the application to be determined at this time. In the context of planning case law it is therefore appropriate to determine this application with due consideration of that recognised residential potential, subject to the above material considerations and assessments, particularly in respect of cumulative impact considerations and of Scottish Planning Policy on prematurity and prejudice to the Proposed LDP.

Planning Committee is advised that, separate to the representations to this planning application, there have been some 161 objections to the Proposed Local Development Plan in respect of Proposal NK7. Those representations set out grounds of objection to Proposal NK7 reflecting those voiced by objectors to this planning application as advised earlier in this report. As with the objections to this application, Members have access to the full text of the representations received on the plan in a shared electronic folder. The grounds of objection are considered in part above and through the technical assessment of the proposals in this report.

In being a site of the Proposed Local Development Plan 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 on prematurity and prejudice to the plan, 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 (SDA), however, sites are also allocated outwith the west and the SDA to reflect marketable and effective sites which are required to 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 much more significant role in providing for an effective five years housing land supply.

It therefore requires to be considered whether in scale and/or location the site is 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 other 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 the above do not apply, 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 Interim 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 for the Proposed Local Development Plan included assessment of them through considerations which reflect the criteria of the Interim Guidance, including considerations of sustainability and effectiveness. Whilst the approved Interim Guidance need not be given significant weight in respect of sites that are integral to the strategy and sites of the Proposed LDP, its considerations of scale, location and mitigation of impacts and the related detailed criteria remain relevant.

The Interim Guidance remains a material consideration in the determination of planning applications for sites not previously allocated for housing development and not part of the Proposed Local Development Plan.

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 in principle to enable future development of it. 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 term. 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.

In terms of land use Scottish Planning Policy states that where it is necessary to use good quality land for development, the layout and design should minimise the amount of such land that is required. Development on prime agricultural land may be permitted where it is essential as a component of the settlement strategy or necessary to meet an established need.

Part 5(d) of Policy DC1 states that proposed development must minimise the loss of prime agricultural land. This is not the same as stating that there must be no loss of prime agricultural land. Rather, if prime agricultural land has to be developed, the amount of such land taken out of agricultural use must be the least possible.

In this case, housing site NK7 of the Proposed Local Development Plan is one which represents the Council's settled view of where new development should occur as an essential component of its settlement strategy to meet the SESplan housing land requirement. Moreover given the size of the site at some 13.5 hectares which includes for adequate provision of open space, and the amount of undeveloped agricultural land in the surrounding area, it is considered that the proposed development would, given its nature, minimise the loss of prime agricultural land.

Therefore a residential development of the site would contribute to the effective five year housing land supply 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 Gullane 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 and its associated Supplementary Guidance on Housing Land. As a site proposed for allocation, a grant of planning permission in principle would not conflict with the Council's settled view of where development should take place.

Examination of the plan will consider unresolved representations objecting to the proposed Compact Growth strategy and to specific sites. It is the case that any modification of the plan in respect of the compact strategy would likely require additional allocations in the east of East Lothian rather than removal of them.

The proposed allocation of the site in the Proposed Local Development Plan is not central to the primary aims and objectives of the plan i.e. the compact strategy. Thus it is considered that a grant of planning permission in principle would not, in the particular circumstances of this site, predetermine decisions about the scale, location or phasing of new development central to the emerging plan.

If planning permission in principle were to be granted, the details of the siting, design and

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

In respect of open space, the Council's Principal Amenity Officer advises that the areas of open space indicatively shown to be provided would be set out in such a way as to provide sufficient areas of open space for informal recreation for a proposed development of 150 residential units, 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 Recreation Park, which is on the west side of Muirfield Terrace a short distance to the northwest of the application site, with additional facilities rather than provide a new facility within the application site. The applicants have confirmed in writing that they are willing to contribute a sum of £77,550 as the amount agreed with the Council's Principal Amenity Officer for enhancement of the existing play area at Recreation Park. This contribution can be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal Agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing this appropriate developer contribution the proposed development is consistent with Policy C2 of the adopted East Lothian Local Plan 2008.

The Council's Sports Development & Community Recreation Team Manager advises that in terms of contribution towards formal recreational facilities, the evidence base arrived at through examination of cumulative needs for the Proposed LDP demonstrates that Gullane would require an enhancement of the existing 11-aside grass pitch (levelling / drainage) within Recreation Park and that a new additional 7-aside football pitch is required, either within the footprint of Recreation Park or in another location within the wider area, to accommodate the increased use the proposed housing development would generate. His advice is that based on recent works of a similar nature elsewhere in East Lothian, a sum of £85,050 is sought. The applicants have confirmed in writing that they are willing to contribute a sum of £85,050 towards these formal recreational facilities. 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.

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) provides the evidence base which has 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 the impact of the Local Development Plan allocations and the site 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 Saltcoats 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):

- * improvements to Old Craighall junction - £3,450;
- * improvements to Salters Road Interchange and Bankton Interchange – £6,673.50 and £30,459;
- * improvements to the rail network - £53,410.50;
- * Musselburgh town centre improvements - £2,533.50;
- * Tranent town centre improvements – £4,374.

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £100,900.50.

In respect of the matters above, Transport Scotland advises 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, Cala Management Ltd, is willing to pay Transport Scotland a sum of £3,450 towards the upgrade of the Old Craighall junction. They have provided the Council with a formal legal undertaking that they will make this payment to Transport Scotland on commencement of development of the site following a grant of planning permission in principle, were this to be the decision. Transport Scotland is 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 Drem 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, which will substantially increase timetable flexibility and contribute towards additional services. 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 informing the East Lothian Council's Draft Developer Contributions Framework Network Rail therefore seeks a developer contribution of £53,410.50. Again the applicant have provided the Council with a formal legal undertaking that they will make this payment to Network Rail on commencement of development of the site following a grant of planning permission in principle, were this to be the decision. 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 the other required interventions of £44,040 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, which the applicants have confirmed in writing that they are willing to make, 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 objection to the application, being satisfied that traffic likely to be generated by the proposed development could be satisfactorily accommodated on the local road network, that the site could be accessed safely and thus it would not result in a road or pedestrian safety hazard. Neither do Road Services raise any objection with regards to any perceived impact on parking in Gullane itself.

Roads Services recommend that:

- * the existing 30 miles per hour (mph) speed limit on the C111 public road be extended southwards along the entire length of the site frontage;
- * any new access junction with the C111 public road have a minimum visibility splay of 2.4 metres by 90 metres in both directions such that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface;
- * off site road improvement works are made to the C111 to include for the formation of footpaths, as shown on one of the applicant's submitted drawings;
- * a footpath link be provided from the northwest corner of the site to connect to Gullane Primary School and Muirfield Drive;
- * parking for the proposed residential units be provided at a rate as set out in the East Lothian Council Standards for Development Roads – Part 5 Parking Standards;
- * all access roads conform to East Lothian Council Standards for Development Roads in relation to roads layout and construction, footways & footpaths, parking layout and number, street lighting and traffic calming measures;
- * vehicle accesses to private parking areas (i.e. other than driveways) be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;
- * driveways having minimum dimensions of 6 metres by 2.5 metres and double driveways having minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 metres length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;
- * within residential private parking areas the minimum dimensions of a single parking space being 2.5 metres by 5 metres and all visitor parking spaces within these areas being clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

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

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

* a Construction Method Statement to minimise the impact of construction activity on the public road network be submitted to and approved by the Planning Authority prior to the commencement of development. It should recommend mitigation measures to control construction traffic including that construction HGV traffic will not be routed through Gullane and shall include hours of construction work; and

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

On the point of a footpath link from the northwest corner of the site to connect to Gullane Primary School and Muirfield Drive this would require to be routed through the school grounds. The school grounds are currently contained within a fence surrounding them. Moreover as this land is not in the control or ownership of the applicant it would be unreasonable to expect such footpath provision. There would still remain an informal pedestrian link from the site to Muirfield Drive.

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

The Council's Waste Services Manager raises some concerns over the layout of the indicative masterplan, but otherwise raises no objection to the application. As the submitted masterplan is indicative the comments from Waste Services has been passed to the applicant for their information and can be addressed through the detailed plans for development of the site which would be required should planning permission in principle be granted.

The Council's Environmental Health Manager raises no objection to the proposals, satisfied they would not result in harm to the amenity of any neighbouring land use.

The Council's Archaeology Officer advises that the proposed development would be situated in close proximity to known archaeological sites recorded in East Lothian Council's Historic Environment Record. 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 in principle for the proposed development. This approach is consistent with Scottish Planning Policy: June 2014 and Planning Advice Note 2/2011: Planning and Archaeology.

The Council's Access Officer raises no objection to the proposed development.

In respect of landscape matters the Council's Landscape Projects Officer has appraised the Landscape and Visual Assessment (LVA) submitted with the application. She advises that she agrees with the LVA assessment that the proposed development would alter the character of Gullane along this localised edge, but that the addition of a further area of modern housing is not inconsistent with the growth that has already occurred

within and around the south-eastern part of the village.

The Landscape Projects Officer notes that the submitted indicative masterplan shows new woodland planting along the western boundary of the site to link with the existing woodland of Millennium Wood to the northwest of the site, and this is supported. She further advises that areas of open space have been indicated along the southern boundary of the site, described as a landscape buffer to southern edge. This open space as indicatively shown provides an opportunity to integrate this proposed urban expansion of Gullane successfully into the surrounding rural landscape such that the proposed development can be successfully designed to fit within its wider landscape setting. She also makes recommendations on additional landscape planting that could be undertaken to further integrate the proposed development into its landscape setting.

Subject to the submission of a detailed scheme of landscaping taking account of additional landscaping requirements of the Landscape Projects Officer, which can be made a condition of any grant of planning permission in principle, the proposed development is consistent with Policy DP14 of the adopted East Lothian Local Plan 2008.

The application site is some 290 metres to the east of the southeastern edge of Gullane Conservation Area and thus would be outwith the Conservation Area. The landscape and visual assessment given above concludes that, subject to the submission of a detailed scheme of landscaping for the site, a proposed development of it can be successfully designed to fit within its wider landscape setting. Given this and its distance from the edge of the Conservation Area, the principles of the proposed development of the site would have only a limited inter-relationship with the Conservation Area and would not harm the setting of that adjacent part of the Conservation Area, consistent with Scottish Planning Policy: June 2014.

The listed buildings of Saltcoats Castle, Saltcoats Vaulted Chamber and Saltcoats Market Garden House (all category B listed) and Saltcoats Dovecot (category C listed) are all some 0.5 kilometres to the southwest of the application site. They are separated from the site by intervening farmland, Saltcoats Farm Cottages and the woodland surrounding the cottages. They are also visually contained within their tree lined walled enclave. Due to this, a proposed development of the site would not have a harmfully prominent or imposing visual relationship with the listed buildings and thus would not harm their setting.

On this consideration the principle of the proposed development of the site for residential use is not contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy ENV3 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: June 2014.

In terms of generic wildlife interest, the Council's Biodiversity Officer advises that the application site is largely an arable field, with limited habitat value. He advises he concurs with the conclusions of habitat survey submitted with the application and assessment and is satisfied that in terms of the wider, generic, wildlife interest of the site, the proposal would not have a harmful impact on existing wildlife.

With regard to international designations, paragraph 207 of Scottish Planning Policy states that sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) make up the Natura 2000 Network of protected areas. Any development proposal likely to have a significant effect on these sites which is not directly connected with or necessary to their conservation management must be subject to an "appropriate assessment" of the implications for the conservation objectives. Such

plans or proposals may only be approved if the competent authority has ascertained by means of an “appropriate assessment” that there will be no adverse effect on the integrity of the site.

Policy NH1a of the adopted East Lothian Local Plan 2008 stipulates that development which would have an adverse effect on the conservation interest of a Natura 2000 area (including proposed Special Protection Areas or Special Areas of Conservation) or a Ramsar site will only be permitted in the following circumstances, (i) there are no alternative solutions, and (ii) there are imperative reasons of over-riding public interest, including those of a social or economic nature.

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

The Council's Biodiversity Officer advises that the Firth of Forth Special Protection Area (SPA) is designated as a Natura 2000 site because of its importance to over-wintering waders and wildfowl. One of the principal species of this designation is the pink footed goose which visits East Lothian farmland in abundance from September onwards each year. The SPA designation extends protection over landscapes that are not within the SPA boundary but which are still important for sustaining species listed in the citation. This potentially includes the arable fields south of Gullane, where pink footed geese feed.

A goose survey has been carried out over a number of seasons to identify those fields around East Lothian that are of particular importance to feeding and roosting pink footed geese. The overall arable area to the south and east of Gullane is of huge importance to pink footed geese, with thousands of geese recorded in different years by the survey. Five hundred geese were recorded specifically in the field which comprises the application site in a recent survey, so it is known that geese use this field, as well as other fields in the wider area.

The application proposal, therefore, would potentially have a significant environmental impact, which could be experienced through loss of feeding area and displacement of geese to surrounding fields. Since this is related to the Firth of Forth SPA, both the Council's Biodiversity Officer and Scottish Natural Heritage (SNH) advise it needs to be demonstrated that there will be no adverse impact on the SPA or its qualifying interests.

As the proposed development may affect a qualifying interest of the Firth of Forth SPA, namely the potential loss of feeding grounds and displacement of pink footed geese, then in accordance with the Conservation (Natural Habitats, &c.) Regulations 1994, more commonly known as the 'Habitat Regulations', the Council must undertake an appropriate assessment to ascertain the impacts of the development on the qualifying interests of the Firth of Forth SPA.

Regulation 48(2) of the Habitats Regulations states that the applicant shall provide such information as the Council may reasonably require for the purposes of the assessment.

In support of this application and to inform an appropriate assessment the applicant appointed ITP Energised (ITPE) to undertake an assessment of effects on pink-footed goose as a qualifying feature of the Firth of Forth Special Protection Area (SPA), resulting from the proposed residential development of the site. The assessment seeks to address concerns raised by the Council's Biodiversity Officer and SNH on the following potential effects on pink footed geese resulting from the proposed development; (i) direct loss of feeding grounds; and (ii) indirect loss of feeding grounds, e.g. through disturbance.

On appraisal of this the Council has undertaken and submitted an Appropriate Assessment. The Appropriate Assessment informs that the proposal is for the principle of a new residential development on the south side of Gullane, including ancillary works and space for expansion of Gullane Primary School. Potential impacts on the SPA and its species include direct loss of feeding habitat and indirect impacts such as disturbance by people. The proposal, therefore, has a 'likely significant effect' on the SPA. The Appropriate Assessment has been carried out to determine whether displacement or disturbance will affect the integrity of the Firth of Forth Special Protection Area (SPA).

The Appropriate Assessment advises of the possible impacts on the SPA that are considered, including:

1. Disturbance and/ or displacement of species during construction work; and
2. Disturbance and/ or displacement of species when the site becomes a residential area.

The conclusions of the Appropriate Assessment are, provided that specified mitigation is implemented as identified in the ITPE assessment of effects on pink-footed goose as a qualifying feature of the Firth of Forth Special Protection Area, the proposal would not have any adverse effects on the integrity of the SPA. In summary this mitigation is:

Construction Phase:

- * Screening on scaffolding to reduce visible presence of people;
- * No access to be taken by work personnel outwith the eastern and southern site boundary;
- * Measures to reduce noise such as soft start piling and directional reversing alarms on vehicles.

Operational Phase:

- * Private properties set back from the southern boundary of the site to reduce the visual impact of the edge of the development;
- * Landscaping designed to encourage people to remain within the boundaries of the site;
- * Path creation and signage to encourage people to walk along the existing core path on the southern boundary of the site and discourage people from walking across the field to the south of the site.

Subject to the proposed development incorporating the mitigation measures as identified in the ITPE assessment of effects on pink-footed goose as a qualifying feature of the Firth of Forth Special Protection Area, and appropriate assessment, both the Council's Biodiversity Officer and SNH raise no objection to the application, being satisfied the proposals would not impact on the integrity of the Firth of Forth Special Protection Area (SPA).

The Appropriate Assessment has identified that the proposals would not have any adverse effect on the qualifying interest of the Firth of Forth SPA, namely the potential loss of feeding grounds and displacement of pink footed geese. Subject to the aforementioned mitigation measures the proposals would not compromise the objectives or designation and overall integrity of the SPA. Accordingly, the proposals do not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies NH1a and DP13 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: June 2014.

The Scottish Environment Protection Agency (SEPA) raises no objection to the principle of the proposed development on the grounds of potential flood risk. In terms of surface water drainage SEPA advise that SUDS will be used to treat this and that there is sufficient space within the development to accommodate a SUDS system onsite. SEPA therefore raises no objection to the application on the grounds of surface water drainage. In this respect it would be prudent to impose a condition on a grant of planning permission in principle that full details of the finalised SUDS scheme are submitted to and approved in advance by the Planning Authority prior to the commencement of development.

The Council's Team Manager - Structures, Flooding and Street Lighting makes no comment on the application.

Scottish Water has made no comment on the application.

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

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

He advises that Gullane Primary and Nursery School and North Berwick High School do not have sufficient capacity to accommodate children that could arise from the proposed development. Thus he would object to the application on the grounds of lack of permanent capacity at those schools unless the applicant makes a financial contribution to the Council of £1,164,393 towards the provision of additional school accommodation at Gullane Primary and Nursery School and a contribution of £1,071,000 towards the provision of additional school accommodation at North Berwick High School.

The required payment of a financial contribution of a total of £2,235,393 towards the provision of additional accommodation at Gullane Primary and Nursery School and North Berwick High School can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding necessary school capacity. The applicants confirm in writing that they are willing to enter into such an agreement.

Proposal NK7 of the proposed Local Development Plan states that the application site is, as well as for housing, allocated for the expansion of the Gullane Primary School campus. This proposed expansion of the school campus land is shown on the submitted indicative masterplan. Moreover, the applicant has indicated they would be willing to provide this additional land to the Council for this purpose. Notwithstanding this, the Council's Depute Chief Executive, Resources and People Services advises he has considered the impact of the necessary additional built footprint of Gullane Primary and Nursery School together with additional campus land required for outdoor play area space and car parking. He confirms that the existing residual school campus area of

approximately 1.3ha is sufficient for the provision of the additional educational, recreation and playing field area for the projected capacity of the school arising from the cumulative impact of the residential development of this site, together with other LDP allocations in the school catchment area. This assessment is based on the standards set within the School Premises Act (Scotland) 1967, updated in 1973. On this basis the Depute Chief Executive, Resources and People Services advises there is no requirement to secure through this application the proposed additional school campus land as shown on the indicative masterplan, as it is not required as a direct consequence of this proposed development.

The Depute Chief Executive, Resources and People Services does however advise that the proposed additional school campus land as shown on the indicative masterplan forms part of the proposal and would therefore still provide for the potential for expansion of the school campus land in the future should this be required. In this he confirms the proposed housing would not prejudice the possible future development of the school campus land as an expansion to Gullane Primary School.

The Council's Economic Development & Strategic Investment Manager advises that a grant of planning permission in principle would require to be subject to provision of 25% of all housing units to be developed as affordable housing. They should be provided on site or, if it can be demonstrated to the Council that this, or the off-site provision of the required affordable units is not practicable, a commuted sum payment should be made to the Council in lieu of such an on or off-site provision. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant confirms they are willing to do, the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

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

In the context of the site being Proposal NK7 of the Proposed Local Development Plan, and in that its impacts in respect of amenity and technical considerations are acceptable in themselves, or can be mitigated through the appropriate use of planning conditions and necessary developer contributions, the balance of the material considerations of this case supports the proposals. This includes consideration of the matters raised in objections to the application and the representations to the proposed allocation of the site in the Proposed Local Development Plan.

Furthermore, the scale and location of development is consistent with the Council's Housing Land Supply: Interim Planning Guidance, which in itself would justify a grant of planning permission in principle.

In all of the above the proposal would not prejudice the Examination of the Proposed Local Development Plan. It would not undermine the plan-making process by pre-determining decisions about the scale, location or phasing of new developments central to the emerging plan. Therefore approval of it would not be a premature decision. A grant of planning permission in principle would be 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 in principle be granted subject to:

1. The undernoted conditions.

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

(i) secure from the applicant a financial contribution to the Council of £2,235,393 towards the provision of additional accommodation at Gullane Primary and Nursery School and North Berwick High School;

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

(iii) secure from the applicant a financial contribution to the Council of £77,550 for the provision of additional play equipment and/or for some other enhancement of the play area at Recreation Park, Muirfield Terrace, Gullane;

(iv) secure from the applicant a financial contribution to the Council of £85,050 for the provision of increased sports pitch capacity; and

(v) secure from the applicant a financial contribution to the Council of £44,040 for road improvements to Salters Road Interchange and Bankton Interchange, Musselburgh town centre improvements and Tranent town centre improvements.

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient school capacity at Gullane Primary and Nursery School and North Berwick High School, a lack of provision of affordable housing, a lack of formal play and sports pitch provision and a lack of roads and transport infrastructure improvements contrary to, as applicable, Policies INF3, H4 and C2 of the adopted East Lothian Local Plan 2008.

CONDITIONS

- 1 The submission for approval of matters specified in conditions of this grant of planning permission in principle in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) shall include details of the siting, design and external appearance of the residential units, the means of access to them, the means of any enclosure of the boundaries of the site and the landscaping of the site. Those details shall generally comply with the Indicative Masterplan docketed to this planning permission in principle, but additionally shall comply with the following design requirements:

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

Reason:

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

- 2 No more than 150 residential units are approved by this grant of planning permission in principle. Unless otherwise agreed in writing with the Planning Authority, housing completions on the application site 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 2019/2020	-	30 residential units
Year 2020/2021	-	50 residential units
Year 2021/2022	-	47 residential units
Year 2022/2023	-	23 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 2023/2024 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 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall be generally based on the

landscape proposals shown in principle on the docketed Indicative Masterplan.

It shall also provide details of: the height and slopes of any mounding on or recontouring of, the site including any SUDS pond formation with existing and proposed levels; new tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting, which shall include a hedgerow along the full length of the southern boundary of the site, a native mixed woodland along the full length of the western boundary of the site, groups of trees and woodlands on the southerly located areas of open space, large species trees within open spaces throughout the site, and feature trees and landscaping on the eastern road frontage of the site. The scheme shall also include a full arboricultural assessment of all existing trees and hedgerows on and adjacent to the application site in accordance with BS5837:2012 'Trees in relation to design, demolition and construction' to include a tree survey and tree constraints plan, details of any trees to be retained, and measures for their protection in the course of development. It shall be insured that no garden ground extends within the root protection area of existing trees to be retained. The scheme shall also include a maintenance plan for the management of the scheme of landscaping.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and thereafter the landscaping shall be maintained in accordance with the approved maintenance plan. 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. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

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

- 4 No development shall take place 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) 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.

- 5 No development shall commence unless and until a 30 miles per hour (mph) speed limit on the C111 public road has been brought into effect in a location from the existing 30 miles per hour (mph) speed limit on the C111 public road southwards to include along the entire length of site frontage. Details of the new 30 miles per hour speed limit shall be submitted to and approved in advance by the Planning Authority and shall include the provision of street lighting over the full extent of the proposed new 30mph speed limit and shall incorporate town entry treatments. Thereafter the new 30 miles per hour speed limit, street lighting and town entry treatments shall be implemented and installed in accordance with the details so approved.

Reason:

In the interests of road safety.

- 6 A visibility splay of 2.4m by 90m in both directions shall be provided and maintained at all proposed site access junctions with the C111 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 Prior to the occupation of any of the residential units hereby approved the off-site road improvement works shall be carried out in accordance with that shown on docketed drawing no. 513. These off-site road improvements shall incorporate street lighting in accordance with a detail to be submitted to and approved in advance by the Planning Authority.

Reason:

In the interests of road safety.

- 8 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.

- 9 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.

- 10 The mitigation measures for the prevention of disturbance and/or displacement of pink footed geese during the construction and operational phases of the development hereby approved shall be implemented in strict accordance with those detailed in section 5.2 'Mitigation Measures' of the 'SALTCOATS: Assessment of effects on pink footed goose (*Anser brachyrhynchus*) as a qualifying feature of the Firth of Forth Special Protection Area (SPA)' document by ITP Energised docketed to this planning permission in principle.

Reason:

To safeguard species of the Firth of Forth Special Protection Area.

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

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

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

Reason:

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

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

Reason:

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

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

REPORT TO: Planning Committee
MEETING DATE: Tuesday 6 June 2017
BY: Depute Chief Executive (Partnership and Community Services)
SUBJECT: Application for Planning Permission for Consideration

2

Application No. 16/00587/PM
Proposal Erection of 40 houses, 8 flats and associated works
Location Fenton Gait East
Gullane
East Lothian
Applicant CALA Management Ltd
Per Apt Planning & Development Ltd

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

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

As a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 16/00005/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 200 people attended the pre-application public exhibition, which was held over two days at The Golf Inn, Main Street, Gullane on 18 and 19 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 eastern side of Gullane. It is some 3.68 hectares in area and is roughly rectangular in shape. The land of the application site is defined by Policy DC1 of the adopted East Lothian Local Plan 2008 as being part of the countryside of East Lothian and is not allocated in that Plan for housing development.

The site is bounded to the west by the residential properties of Fentoun Gait and Muirfield Steading, to the south and east by agricultural land and to the north by the A198 Main Street. There are mature tree belts along the eastern and southern boundaries of the site.

Planning permission is sought through this application for the erection on the application site of 40 houses, 8 flats and associated works.

The development site layout plan shows how the proposed 40 houses and 8 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 four houses (plots 39 to 42 on the site layout plan) which would be two and a half storey. The 8 flats would be contained within 3, two storey flatted buildings, with all of the flats having 2 bedrooms.

Of the 40 houses, 28 would be detached, 8 semi-detached and 4 terraced. In terms of size, of the proposed 40 houses 6 would contain 3 bedrooms, 8 would contain 4 bedrooms and 26 would contain 5 bedrooms.

Of the 40 houses there would be a total of 36 private houses for sale. The houses would comprise of 12 different house types, including the provision of 12 affordable housing units which would be a mix of 2 different house types and 2 bedroom flats.

Vehicular, pedestrian and cycle access to the site would be taken by way of a new access junction with the A198 Main Street. A pedestrian link would be formed connecting the site to Muirfield Steading to the west.

Three areas of landscaped open space would be formed on the site, one large area on the southern part of the site, a second smaller area on the western part of the site at its northern end and another smaller area centrally within the site. A SUDS pond would be formed on the southeastern corner of the site.

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 11 October 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. 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 non-material amendments have been made to

the application resulting in the submission of revised site layout plans and landscaping plans to show a slightly revised site layout for the proposed development and enhanced landscaping of the site. They also show a reduction in the number of proposed residential units from 49 to 48.

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), ENV3 (Listed Buildings), ENV9 (Greywalls, Gullane), 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 are Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: June 2014.

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

Scottish Planning Policy states proposals for development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area.

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.

One of the main Outcomes of Scottish Planning Policy is to create successful, sustainable places 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.

A 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.

The adopted East Lothian Local Plan is more than five years old.

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 approved the 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. This Interim Guidance reflects the principles of Policy 7 of SESplan and is a material consideration in the determination of this application for planning permission.

In respect of development plans, 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 development 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.

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. It sets out a generous housing land supply to meet the requirements of Scottish Planning Policy and SESplan.

The Schedule 4 responses to comments on the plan during its period of representation were approved by Council at its meeting of 28 March 2017 and have been submitted, together with the plan, for Examination.

At this stage the Proposed Local Development Plan is the settled view of the Council as to the strategy, plans and policies for development. It is a material consideration in the determination of planning applications, however, as it remains subject to Examination it cannot be accorded the weight of an adopted development plan.

In Paragraph 34 of Scottish Planning Policy it is stated 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 (in this case the Proposed Local Development Plan). Scottish Planning Policy goes on to state that 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.

In respect of the above provision of Scottish Planning Policy it must therefore be considered whether or not the site under consideration is of a scale, location or phasing that is central to the Proposed Local Development Plan and whether a grant of planning permission would, in this instance, undermine the plan making process and therefore be considered premature.

Also material to the determination of the application are the written representations to the proposals. A total of 283 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 access.

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

- * it would result in the loss of agricultural land;
- * it would compromise delivery of housing on the former fire service training school;
- * it would lead to additional traffic generation that would be too much for the local road network to cope with resulting in a road, cyclist and pedestrian safety hazard;
- * it would lead to parking problems in Gullane;
- * it would lead to flooding, sewerage and drainage problems;
- * it would harmfully impact on local infrastructure in terms of school and healthcare capacity and community facilities;

- * it would lead to a loss of amenity to neighbouring residential properties through overlooking and loss of sunlight;
- * it would be contrary to Policy DC1 of the adopted East Lothian Local Plan 2008;
- * it would not follow the pattern of development of the village;
- * it would result in an overdevelopment of the site, disproportionate to the size of the village and would destroy its character;
- * it would harmfully impact on tourism;
- * it would prejudice the Local Development Plan;
- * it would not be sustainable as it would result in more car journeys and there is no employment to serve it in Gullane;
- * it is too far from shops, services, bus stops and railway stations;
- * the existing public transport network is currently full and cannot accommodate it;
- * it would lead to noise and disruption;
- * it would be a threat to biodiversity and would displace pink footed geese;
- * it would harmfully impact on Gullane Conservation Area;
- * it would harm the setting of listed buildings and the Greywalls Designed Landscape;
- * it would harmfully change the existing landscape character of the area;
- * it should include for much needed affordable housing;
- * it would impact on police and fire service resources; and
- * it would be development in the green belt.

Contrary to what is stated in written objections the site is not part of the Green Belt.

Some of the objections state there are few employment opportunities in Gullane and most future occupiers of the houses would have to commute to Edinburgh. The proposed Local Development Plan recognises Edinburgh as an important source of employment, however, there are some employment opportunities in Gullane and the wider area, and home working is a growing trend.

It should be noted that in terms of the existing medical practice in Gullane, NHS Lothian was consulted during the preparation of the Local Development Plan and advised there was sufficient accommodation within Gullane Medical Practice to accommodate additional GP services. Therefore the capacity of the existing practice building is capable of accommodating the levels of growth set out in the Proposed Local Development Plan.

East Lothian Council's Team Leader for Community Learning and Development was consulted in the preparation of the Local Development Plan, and identified that there was

no requirement for additional community centres in Gullane, satisfied there was sufficient community space.

Annex B of the Scottish Government's Planning Advice Note 75: Planning for Transport recommends a threshold of 1600m for walking distance to local facilities. The application site is within this distance of the school, the medical centre and many shops and other facilities within Gullane.

The recommended guidelines in Planning Advice Note 75 for accessibility of housing to public transport are less than 400m to bus services and up to 800m to rail services. Although the site is outwith the guideline distance for rail services it is within the distance for bus services.

Gullane Area Community Council, as a consultee on the application, objects to the proposed development. The Community Council mainly object on the grounds that:

- * the location of the site makes it unsustainable;
- * they consider it to be too large scale;
- * it constitutes development in the countryside contrary to Policy DC1 of the adopted East Lothian Local Plan 2008;
- * it would lead to cumulative impacts harmful to Gullane;
- * it would not minimise travel by car;
- * it would prejudice the Local Development Plan;
- * it would prejudice brownfield site delivery;
- * the site has limited access to public transport;
- * it may impact on the listed Greywalls;
- * it may cause a pedestrian safety hazard;
- * community facilities do not have the capacity to cater for it; and
- * it would have a detrimental impact on infrastructure in Gullane in terms of schools and doctor surgeries;

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 facilities and other essential infrastructure. Consideration must also be given to the objections to the application and the relevant representations to the Proposed Local Development Plan.

In that the site now under consideration is housing site NK8 of the Proposed Local Development Plan, the Council recognises its potential for residential development. Proposal NK8 allocates the site for a residential development of circa 50 homes.

The Council's Legal Services has previously advised that 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 applicants have confirmed that they wish the application to be determined at this time. In the context of planning case law it is therefore appropriate to determine this application with due consideration of that recognised residential potential, subject to the above material considerations and assessments, particularly in respect of cumulative impact considerations and of Scottish Planning Policy on prematurity and prejudice to the Proposed LDP.

Planning Committee is advised that, separate to the representations to this planning application, there have been some 162 objections to the Proposed Local Development Plan in respect of Proposal NK8. Those representations set out grounds of objection to Proposal NK8 reflecting those voiced by objectors to this planning application as advised earlier in this report. As with the objections to this application, Members have access to the full text of the representations received on the plan in a shared electronic folder. The grounds of objection are considered in part above and through the technical assessment of the proposals in this report.

In being a site of the Proposed Local Development Plan 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 on prematurity and prejudice to the plan, 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 (SDA), however, sites are also allocated outwith the west and the SDA to reflect marketable and effective sites which are required to 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 much more significant role in providing for an effective five years housing land supply.

It therefore requires to be considered whether in scale and/or location the site is 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 other 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 the above do not apply, 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 Interim 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 for the Proposed Local Development Plan included assessment of them through considerations which reflect the criteria of the Interim Guidance, including considerations of sustainability and effectiveness. Whilst the approved Interim Guidance need not be given significant weight in respect of sites that are integral to the strategy and sites of the Proposed LDP, its considerations of scale, location and mitigation of impacts and the related detailed criteria remain relevant.

The Interim Guidance remains a material consideration in the determination of planning applications for sites not previously allocated for housing development and not part of the Proposed Local Development Plan.

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 future development of it. There is no evidence to suggest that the site cannot be developed in the short term. 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.

In terms of land use Scottish Planning Policy states that where it is necessary to use good quality land for development, the layout and design should minimise the amount of such land that is required. Development on prime agricultural land may be permitted where it is essential as a component of the settlement strategy or necessary to meet an established need.

Part 5(d) of Policy DC1 states that proposed development must minimise the loss of prime agricultural land. This is not the same as stating that there must be no loss of prime agricultural land. Rather, if prime agricultural land has to be developed, the amount of such land taken out of agricultural use must be the least possible.

In this case, housing site NK8 of the Proposed Local Development Plan is one which represents the Council's settled view of where new development should occur as an essential component of its settlement strategy to meet the SESplan housing land requirement. Moreover given the small size of the site at some 3.68 hectares which includes for adequate provision of open space, and the amount of undeveloped agricultural land in the surrounding area, it is considered that the proposed development would, given its nature, minimise the loss of prime agricultural land.

Therefore a residential development of the site would contribute to the effective five year housing land supply 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 Gullane 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 and its associated Supplementary Guidance on Housing Land. As a site proposed for allocation, a grant of planning permission would not conflict with the Council's settled view of where development should take place.

Examination of the plan will consider unresolved representations objecting to the proposed Compact Growth strategy and to specific sites. It is the case that any modification of the plan in respect of the compact strategy would likely require additional allocations in the east of East Lothian rather than removal of them.

The proposed allocation of the site in the Proposed Local Development Plan is not central to the primary aims and objectives of the plan i.e. the compact strategy. Thus it is considered that a grant of planning permission would not, in the particular circumstances of this site, predetermine decisions about the scale, location or phasing of new development central to the emerging plan.

In respect of assessment of part of the consideration of the detail of the application, the A198 public road comprises an important gateway into Gullane. It is proposed that the houses along the eastern side of the application site, and thus most prominent in westward views when travelling into Gullane from the east, would be set back from the eastern boundary of the site and separated from it by the existing landscape planting belt which encloses the eastern boundary of the site. Additionally it is proposed that that landscape planting belt would be reinforced by additional landscaping planting. Moreover it is proposed that the houses along the northern boundary of the site, those closest to the A198 public road, would be set back from the road and separated from it by the new landscape planting.

The landscape planting as so enhanced along the eastern boundary of the site and the

new landscape planting the northern boundary of the site would soften and serve to integrate the proposed development into its landscape setting, breaking up the massing of the proposed development whilst gently introducing an additional extent of urban development at this important gateway into Gullane. It would ensure a visually attractive approach into Gullane, with the proposed houses visible but not appearing prominent or intrusive in their surroundings. The proposals respond appropriately to the character of this location in such respect.

One of the principal objectives of the Council's approved Design Standards for New Housing Areas is to reduce the visual dominance of the car in the streetscape of new housing developments. The applicant has addressed this principle throughout the development by use of in-curtilage parking to the side of houses, or the use of courtyard parking. 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 Gullane. 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 setting.

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

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 and flats 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 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 Recreation Park, which is on the west side of Muirfield Terrace to the southwest of the application site, with additional facilities rather than provide a new facility within the application site. The applicants have confirmed in writing that they are willing to contribute a sum of £24,816 as the amount agreed with the Council's Principal Amenity Officer for enhancement of the existing play area at Recreation Park. This contribution can be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal Agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing this appropriate developer contribution the proposal is consistent with Policy C2 of the adopted East Lothian Local Plan 2008.

In respect of landscape matters the Council's Landscape Projects Officer has appraised the Landscape and Visual Assessment (LVA) submitted with the application. She advises that she agrees with the LVA assessment that the proposed development would locally alter the character of the edge of Gullane, but that this is not inconsistent with recent growth in and around the eastern part of the village. The LVA does note that the proposed development will appear more prominent than the existing houses to the west, but that the stature of the proposed houses would be broadly typical of those on the north side of the A198 and that the retained landscaped boundary edges would provide a substantial and well defined edge to the village. She advises that the proposed development would generally be well contained within the site and related to the existing settlement of Gullane. She notes that the addition of large species trees throughout the development provides green links with the existing tree cover within Gullane, helping to break up the massing of the roofscape of the buildings.

In other respects the applicant has taken into consideration other comments of the Landscape Projects Officer in the submission of revised drawings to incorporate enhanced landscape planting of the existing tree belts on the east and south sides of the site, planting within the site itself and the submission of a landscape management report. The Landscape Projects Officer therefore advises she is 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 Manager raises 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 application site is some 250 metres to the south of the Greywalls Designed Landscape. It can be seen in views from the Designed Landscape but in these views it comprises a minor element within the surrounding wider landscape context. The proposed development of the site would increase the visual impact of it in views from the

Designed Landscape but not to such a degree that would harm the landscape setting of the Designed Landscape. On this consideration the proposed development is not contrary to Policy ENV9 of the adopted East Lothian Local Plan 2008.

The application site is some 740 metres to the east of the eastern edge of Gullane Conservation Area and thus would be outwith the Conservation Area. It is separated from the Conservation Area by the built development comprising the eastern side of Gullane. Given this the proposed development of the site would not have a direct visual relationship with the historic core of the Conservation Area and would not harm the setting of the Conservation Area, consistent with Scottish Planning Policy: June 2014.

The listed building of Muirfield Lodge (Category B listed) is to the northwest of the site and the listed building of Greywalls (category A listed) is some 400m to the northeast of the site. Both of these buildings are separated from the site by intervening land and buildings. Due to this the proposed development would not have a harmfully prominent or imposing visual relationship with the listed buildings, would not harm the setting of them and thus would allow them to remain the focus of their setting. On this consideration the proposed development of the site for residential use is not contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy ENV3 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: June 2014.

The Council's Sports Development & Community Recreation Team Manager advises that in terms of contribution towards formal recreational facilities, the evidence base arrived at through examination of cumulative needs for the Proposed LDP demonstrates that Gullane would require an enhancement of the existing 11-aside grass pitch (levelling / drainage) within Recreation Park and that a new additional 7-aside football pitch is required, either within the footprint of Recreation Park or in another location within the wider area, to accommodate the increased use the proposed housing development would generate. His advice is that based on recent works of a similar nature elsewhere in East Lothian, a sum of £27,216 is sought. The applicants have confirmed in writing that they are willing to contribute a sum of £27,216 towards these formal recreational facilities. 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.

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) provides the evidence base which has 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 the impact of the Local Development Plan and the site 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 Fenton Gait East 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):

- * improvements to Old Craighall junction - £1,104;
- * improvements to Salters Road Interchange and Bankton Interchange – £2,135.52 and £9,746.88;
- * improvements to the rail network - £17,091.36;
- * Musselburgh town centre improvements - £810.72;
- * Tranent town centre improvements – £1,399.68.

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £32,288.16.

In respect of the matters above, Transport Scotland advises 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, Cala Management Ltd, is willing to pay Transport Scotland a sum of £1,104 towards the upgrade of the Old Craighall junction. They have provided the Council with a formal legal undertaking that they will make this payment to Transport Scotland on commencement of development of the site following a grant of planning permission, were this to be the decision. Transport Scotland is 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 Drem 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, which will substantially increase timetable flexibility and contribute towards additional services. 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 £17,091.36. Again the applicant have provided the Council with a formal legal undertaking that they will make this payment to Network Rail on commencement of development of the site following a grant of planning permission, were this to be the decision. 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 the other required interventions of £14,092.80 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, which the applicants have confirmed in writing that they are willing to make, 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 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. Neither do Road Services raise any objection with regards to any perceived impact on parking in Gullane itself.

Roads Services additionally recommend that:

- * the existing 30 miles per hour (mph) speed limit be extended along the site frontage on the A198 from the existing 30 mph limit to the tree belt on eastern edge of proposed site boundary;
- * the proposed vehicular access from the A198 be designed in accordance with the Design Manual for Roads and Bridges, Volume 6;
- * a visibility splay of 2.4m by 70m to the west and 2.4m by 160m to the east be provided and maintained at the proposed site access junction with the A198 public road so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface;
- * an independent road safety audit be undertaken for the proposed site vehicular access junction onto the A198 public road;
- * pedestrian crossing points be formed on the A198 public road in close proximity to the site vehicular access junction to link the proposed new development's footways with the north side of the A198 and the wider footway network towards Dirleton and North Berwick;
- * a continuous 2 metre wide footway be provided on the south side of the A198 over the full extent of the new 30 mph speed limit (i.e. from the existing junction at the C111 Fenton Road to the new 30 mph speed limit on the eastern side of the proposed access junction). Dropped kerb tactile crossings are required at the junction with C111;
- * a Double D island be constructed on the western side of the vehicular access junction with the A198 public road to provide a safe crossing point to the north side of the A198 for pedestrians wishing to access the wider footpath network to Dirleton and North Berwick;
- * a footpath link be provided to Muirfield Steading, and crossing point to the footpath be formed on the pavement on the opposite western side of the public road of Muirfield Steading;
- * a continuous 2 metre wide footway be provided on the west side of the C111 public road from its junction with the A198 (Main Street) to the pedestrian access link into West Fenton Gait; A raised table be introduced at this location to assist in reducing vehicle speeds;

* 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.

In terms of generic wildlife interest, the Council's Biodiversity Officer raises no objection to the application, satisfied the proposal would not have a harmful impact on existing wildlife.

With regard to international designations, paragraph 207 of Scottish Planning Policy states that sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) make up the Natura 2000 Network of protected areas. Any development proposal likely to have a significant effect on these sites which is not directly connected with or necessary to their conservation management must be subject to an "appropriate assessment" of the implications for the conservation objectives. Such plans or proposals may only be approved if the competent authority has ascertained by means of an "appropriate assessment" that there will be no adverse effect on the integrity of the site.

Policy NH1a of the adopted East Lothian Local Plan 2008 stipulates that development which would have an adverse effect on the conservation interest of a Natura 2000 area (including proposed Special Protection Areas or Special Areas of Conservation) or a Ramsar site will only be permitted in the following circumstances, (i) there are no alternative solutions, and (ii) there are imperative reasons of over-riding public interest, including those of a social or economic nature.

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

The Council's Biodiversity Officer advises that the Firth of Forth Special Protection Area (SPA) is designated as a Natura 2000 site because of its importance to over-wintering waders and wildfowl. One of the principal species of this designation is the pink footed goose which visit East Lothian farmland in abundance from September onwards each year. The SPA designation extends protection over landscapes that are not within the SPA boundary but which are still important for sustaining species listed in the citation. This potentially includes the arable fields south of Gullane, where pink footed geese feed.

A goose survey has been carried out over a number of seasons to identify those fields

around East Lothian that are of particular importance to feeding and roosting pink footed geese. The overall arable area to the south and east of Gullane is of huge importance to pink footed geese, with thousands of geese recorded in different years by the survey. Five hundred geese were recorded specifically in the field which comprises the application site in a recent survey, so it is known that geese use this field, as well as other fields in the wider area.

The application proposal, therefore, would potentially have a significant environmental impact, which could be experienced through loss of feeding area and displacement of geese to surrounding fields. Since this is related to the Firth of Forth SPA, both the Council's Biodiversity Officer and Scottish Natural Heritage (SNH) advise it needs to be demonstrated that there will be no adverse impact on the SPA or its qualifying interests.

As the proposed development may affect a qualifying interest of the Firth of Forth SPA, namely the potential loss of feeding grounds and displacement of pink footed geese, then in accordance with the Conservation (Natural Habitats, &c.) Regulations 1994, more commonly known as the 'Habitat Regulations', the Council must undertake an appropriate assessment to ascertain the impacts of the development on the qualifying interests of the Firth of Forth SPA.

Regulation 48(2) of the Habitats Regulations states that the applicant shall provide such information as the Council may reasonably require for the purposes of the assessment.

In support of this application and to inform an appropriate assessment the applicant appointed ITPEnergised (ITPE) to undertake an assessment of effects on pink-footed goose as a qualifying feature of the Firth of Forth Special Protection Area (SPA), resulting from the proposed residential development of the site. The assessment seeks to address concerns raised by the Council's Biodiversity Officer and SNH on the following potential effects on pink footed geese resulting from the proposed development; (i) direct loss of feeding grounds; and (ii) indirect loss of feeding grounds, e.g. through disturbance.

On appraisal of this the Council has undertaken and submitted an Appropriate Assessment. The Appropriate Assessment informs that the proposal is for a new residential development on the east side of Gullane. Potential impacts on the SPA and its species include direct loss of feeding habitat and indirect impacts such as disturbance by people. The proposal, therefore, has a 'likely significant effect' on the SPA. The Appropriate Assessment has been carried out to determine whether displacement or disturbance will affect the integrity of the Firth of Forth Special Protection Area (SPA).

The Appropriate Assessment advises of the possible impacts on the SPA that are considered, including:

1. Disturbance and/ or displacement of species during construction work; and
2. Disturbance and/ or displacement of species when the site becomes a residential area.

The conclusions of the Appropriate Assessment are, provided that specified mitigation is implemented as identified in the ITPE assessment of effects on pink-footed goose as a qualifying feature of the Firth of Forth Special Protection Area, the proposal would not have any adverse effects on the integrity of the SPA. In summary this mitigation is:

Construction Phase:

- * Retention of existing boundary planting to screen the site from geese potentially present in adjacent fields;
- * Screening on scaffolding to reduce visible presence of people;
- * No access to be taken by work personnel outwith the eastern and southern site boundary;
- * Measures to reduce noise such as soft start piling and directional reversing alarms on vehicles.

Operational Phase:

- * Retention of the existing boundary hedge, with consolidation through planting and use of a post and wire fence. The hedge and fence will form the boundary of public land rather than private gardens. This will prevent access from the site direct to the fields beyond;
- * Buildings will be set back from the boundary of the site to reduce visual disturbance.

Subject to the proposed development incorporating the mitigation measures as identified in the ITPE assessment of effects on pink-footed geese as a qualifying feature of the Firth of Forth Special Protection Area, and appropriate assessment, both the Council's Biodiversity Officer and SNH raise no objection to the application, being satisfied the proposals would not impact on the integrity of the Firth of Forth Special Protection Area (SPA).

The Appropriate Assessment has identified that the proposals would not have any adverse effect on the qualifying interest of the Firth of Forth SPA, namely the potential loss of feeding grounds and displacement of pink footed geese. Subject to the aforementioned mitigation measures the proposals would not compromise the objectives or designation and overall integrity of the SPA. Accordingly, the proposals do not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) June 2013, Policies NH1a and DP13 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: June 2014.

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

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

In respect of SUDS provision SEPA advises it is satisfied that the applicant is providing the required level of treatment for a development of this size and that the proposed SUDS provision is acceptable.

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

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

He advises that Gullane Primary and Nursery School and North Berwick High School do not have sufficient capacity to accommodate children that could arise from the proposed development. Thus he would object to the application on the grounds of lack of permanent capacity at those schools unless the applicant makes a financial contribution to the Council of £372,605.76 towards the provision of additional school accommodation

at Gullane Primary and Nursery School and a contribution of £342,720 towards the provision of additional school accommodation at North Berwick High School.

The required payment of a financial contribution of a total of £715,325.76 towards the provision of additional accommodation at Gullane Primary and Nursery School and North Berwick High School can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding necessary school capacity. The applicants confirm 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 48 residential units require to be affordable housing units. The affordable housing component of the proposed housing development is 12 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 Proposal NK8 of the Proposed Local Development Plan, and in that its impacts in respect of amenity and technical considerations are acceptable in themselves, or can be mitigated through the appropriate use of planning conditions and necessary developer contributions, the balance of the material considerations of this case supports the proposals. This includes consideration of the matters raised in objections to the application and the representations to the proposed allocation of the site in the Proposed Local Development Plan.

Furthermore, the scale and location of development is consistent with the Council's Housing Land Supply: Interim Planning Guidance, which in itself would justify a grant of planning permission.

In all of the above the proposal would not prejudice the Examination of the Proposed Local Development Plan. It would not undermine the plan-making process by pre-determining decisions about the scale, location or phasing of new developments central to the emerging plan. Therefore approval of it would not be a premature decision. A grant of planning permission would be 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 to the Council of £715,325.76 towards the provision of additional accommodation at Gullane Primary and Nursery School and North Berwick High School;

(ii) secure from the applicant 12 affordable residential units within the application site or if it can be demonstrated to the Council that this, or the off-site provision of 12 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 £24,816 for the provision of additional play equipment and/or for some other enhancement of the play area at Recreation Park, Muirfield Terrace, Gullane;

(iv) secure from the applicant a financial contribution to the Council of £27,216 for the provision of increased sports pitch capacity; and

(v) secure from the applicant a financial contribution to the Council of £14,092.80 for road improvements to Salters Road Interchange and Bankton Interchange, Musselburgh town centre improvements and Tranent town centre improvements.

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient school capacity at Gullane Primary and Nursery School and North Berwick High School, a lack of provision of affordable housing, a lack of formal play and sports pitch provision and a lack of roads and transport infrastructure improvements contrary to, as applicable, Policies INF3, H4 and C2 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 Unless otherwise agreed in writing with the Planning Authority, housing completions on the application site 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 2018/2019 - 27 residential units
Year 2019/2020 - 21 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 2023/2024 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 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 hereby approved 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 The vehicular access junction from the A198 shall be designed in accordance with the Design Manual for Roads and Bridges, Volume 6.

Reason:

In the interests of road safety.

- 6 No development shall commence unless and until a 30 miles per hour (mph) speed limit on the A198 public road has been brought into effect in a location from the existing 30 miles per hour (mph) speed limit on the A198 public road eastwards to include along the entire length of site frontage. Details of the new 30 miles per hour speed limit shall be submitted to and approved in advance by the Planning Authority and shall include the provision of street lighting over the full extent of the proposed new 30mph speed limit and shall incorporate town entry treatments. Thereafter the new 30 miles per hour speed limit, street lighting and town entry treatments shall be implemented and installed in accordance with the details so approved.

Reason:
In the interests of road safety.

- 7 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) pedestrian crossing points shall be formed on the A198 public road in close proximity to the site vehicular access junction to link the proposed new development's footways with the north side of the A198 and the wider footway network towards Dirleton and North Berwick;

(ii) a continuous 2 metre wide footway shall be provided on the south side of the A198 over the full extent of the new 30 mph speed limit as required by Condition 6 above (i.e. from the existing junction at the C111 Fenton Road to the new 30 mph speed limit on the eastern side of the site access junction). Dropped kerb tactile crossings are required at the junction with C111 public road;

(iii) a Double D island shall be constructed on the western side of the vehicular access junction with the A198 public road to provide a safe crossing point to the north side of the A198 for pedestrians wishing to access the wider footpath network to Dirleton and North Berwick;

(iv) a footpath link shall be provided to Muirfield Steading, and a crossing point to the footpath shall be formed on the pavement on the opposite western side of the public road of Muirfield Steading;

(v) a continuous 2 metre wide footway shall be provided on the west side of the C111 public road from its junction with the A198 (Main Street) to the pedestrian access link into West Fenton Gait; A raised table shall be introduced at this location to assist in reducing vehicle speeds;

(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.

Reason:
In the interests of road and pedestrian safety.

- 8 A visibility splay of 2.4m by 70m to the west and 2.4m by 160m to the east shall be provided and maintained at the proposed site access junction with the A198 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.

- 9 Prior to the commencement of development an independent road safety audit shall be submitted to and approved by the Planning Authority for the proposed site vehicular access junction onto the A198 public road.

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 mitigation measures for the prevention of disturbance and/or displacement of pink footed geese during the construction and operational phases of the development hereby approved shall be implemented in strict accordance with those detailed in section 5.2 'Mitigation Measures' of the FENTON GAIT EAST: Assessment of effects on pink footed geese (*Anser brachyrhynchus*) as a qualifying feature of the Firth of Forth Special Protection Area (SPA) document by ITP Energised docketed to this planning permission.

Reason:

To safeguard species of the Firth of Forth Special Protection Area.

- 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 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.

- 16 No trees or shrubs, which are to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the prior written consent of the Planning Authority.

Reason:

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

- 17 No development shall take place on site until temporary protective fencing has been erected in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction". This temporary protective fencing shall be erected prior to the commencement of development and be retained on site and intact through to completion of development. The fencing shall be erected in the positions shown for it as indicated by the blue dashed lines on the docketed landscape layout drawing no. 12-01e.

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 root protection area. Fires on sites should be avoided if possible. Where they are unavoidable, they should not be lit in a position where heat could affect foliage or branches. The potential size of a fire and the wind direction should be taken into account when determining its

location and it should be attended at all times until safe enough to leave.

Reason:

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

- 18 All new planting as shown on the docketed landscape layout drawing no. 12-01f, and as specified on docketed drawing no. 12-02e and in the docketed documents titled 'Cala Management Limited, Fenton Gait, Gullane, Landscape Works, Grassed and Planted Areas, Planting Schedule' and 'Cala Management Limited, Fenton Gait, Gullane, Landscape Works, Grassed and Planted Areas, Planting Key' 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 in the docketed document titled 'Cala Management Limited, Fenton Gait, Gullane, Landscape Works, Grassed and Planted Areas, Maintenance Specification'.

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.

- 19 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.

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

REPORT TO: Planning Committee
MEETING DATE: Tuesday 6 June 2017
BY: Depute Chief Executive (Partnership and Community Services)
SUBJECT: Application for Planning Permission for Consideration

3

Note - this application was called off the Scheme of Delegation List by Councillor McMillan for the following reasons: this is an innovative application in terms of promoting the economic development and tourism goal of “becoming Scotland’s leading coastal, leisure, and food and drink destination’. The report outlines both positive and negative considerations and I believe the Committee should visit the site and discuss the application in full.

Application No. 17/00107/P

Proposal Erection of building for restaurant (class 3) use with covered decked area and associated works

Location Site At The Green
West Bay Beachfront
North Berwick
East Lothian

Applicant Mr Stirling Stewart

Per Architecturejfltd

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

The application site is an area of land on the northern edge of The Green, an area of open space within North Berwick. By being located within the area of open space the area of land is bounded to the south, east and west by other parts of the area of open space, and to the north by the foreshore of West Bay. There is a putting green edged by a footpath on a large part of the area of open space to the south. By being within an area of public open space the application site is within an area covered by Policy C3 (Protection of Open Space) of the adopted East Lothian Local Plan 2008.

The site is within the North Berwick Conservation Area.

The site is adjacent to the southern edge of the Firth of Forth Special Protection Area. It is also adjacent to an area identified by SEPA as being at risk of coastal flooding.

Planning permission is sought for the erection of a building with associated covered deck on the application site. The building would be used as a restaurant with an element of hot food takeaway. It is proposed to set the building with covered deck onto the rough grass on the sand dunes on the northern edge of the area of open space.

The proposed building would be in the form of a modified storage container some 7.5m in length, some 2.5m in width and some 3m in height to the top of its flat roof. It would have a covered timber deck projecting out some 1.5m from its front elevation. The timber deck would have a long timber shelf on its northern edge with associated seating along it. Access to the deck would be via a 2.5m long access ramp with handrails attached to each of its east and west sides. There would be 5 identical pitched roofed canopies supported on galvanised steel frames covering the deck. Attached to the west side of the proposed building would be a rectangular shaped service area some 2m in length by some 2.5m in width. The service area would be enclosed by a 1.8m high timber boarded fence. The service area would contain the gas tanks, water containers and bins to facilitate the use of the building as a restaurant. Attached to the eastern end of the rear (south) elevation of the building would be a small building some 2m in length, some 2m in width and some 3.2m in height to the top of its pitched canopy roof. That smaller building would also be clad with timber and would house a toilet which would be open to the public during the opening hours of the restaurant.

The proposed building would provide within it 3 tables each with 4 associated chairs, with the remainder of the building being used as the kitchen for food preparation, cooking and serving areas. On the timber deck a further 15 stools would be provided along the raised bench.

The supporting statement suggests that the restaurant would operate from 10.00am to 8.00pm daily from April to September inclusive. Thereafter it would be removed from site. No details have been submitted on any restoration works to restore the ground once the container has been removed.

A statement submitted by the applicant's agent states that all deliveries would be made to and from the building by hand cart or sack barrow. Timing of deliveries and waste removal including from the proposed toilet, would be outwith peak hours and could be conditioned such.

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

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

Relevant to the determination of the application is Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies, ENV4 (Development within Conservation Areas), NH1a (Nationally Protected Sites), NH1b (Sites of Special Scientific Interest), DP13 (Biodiversity and Development Sites), C3 (Protection of Open Space), T2 (General Transport Impact), R3 (Hot Food Outlets), DP1 (Landscape and Streetscape Character), DP2 (Design), DP16 (Flooding) and DP22 (Private Parking) of the adopted East Lothian Local Plan 2008.

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

development affecting green infrastructure.

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

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

With regard to international, national and locally designated areas and sites, Paragraph 202 of Scottish Planning Policy: June 2014 states that 'the siting design of development should take account of local landscape character. Development Management decisions should take account of potential effects on landscapes and the natural and water environment, including cumulative effects. Developers should seek to minimise adverse impacts through careful planning and design, considering the services that the natural environment is providing and maximising the potential for enhancement'.

Paragraph 203 of Scottish Planning Policy states that planning permission should be refused where the nature or scale of proposed development would have an unacceptable impact on the natural environment. Direct or indirect effects on statutorily protected sites will be an important consideration, but designation does not impose an automatic prohibition on development.

With regard to international designations, paragraph 207 of Scottish Planning Policy states that sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) make up the Natura 2000 Network of protected areas. Any development proposal likely to have a significant effect on these sites which is not directly connected with or necessary to their conservation management must be subject to an "appropriate assessment" of the implications for the conservation objectives. Such plans or proposals may only be approved if the competent authority has ascertained by means of an "appropriate assessment" that there will be no adverse effect on the integrity of the site.

With regard to flooding, Scottish Planning Policy states that planning should promote a precautionary approach to flood risk from all sources, including coastal, water course (fluvial), surface water (pluvial), groundwater, reservoirs and drainage systems (sewers and culverts), taking account of the predicted effects of climate change. To achieve this the planning system should prevent development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere. It is not possible to plan for development solely according to the calculated probability of flooding. In applying the risk framework to proposed development, the

following should therefore be taken into account:

- * the characteristics of the site;
- * the design and use of the proposed development;
- * the size of the area likely to flood;
- * depth of flood water, likely flow rate and path, and rate of rise and duration;
- * the vulnerability and risk of wave action for coastal sites;
- * committed and existing flood protection methods: extent, standard and maintenance regime;
- * the effects of climate change, including an allowance for freeboard;
- * surface water run-off from adjoining land;
- * culverted watercourses, drains and field drainage;
- * cumulative effects, especially the loss of storage capacity;
- * cross-boundary effects and the need for consultation with adjacent authorities;
- * effects of flood on access including by emergency services; and
- * effects of flood on proposed open spaces including gardens.

North Berwick Community Council as a statutory consultee to the application have raised an objection to the principal of this development in this location. The grounds of objection are:

- * This is public land and is zoned in the LDP as open space. It is currently open and undeveloped, and
- * It forms an important part of the amenity of North Berwick for residents and visitors alike. It is not in the public interest to permit a commercial development in this location.
- * The proposed development would dramatically change this part of the North Berwick beach front.
- * would create a precedent
- * It would have a significant adverse impact on the iconic vista across the green towards the Forth and its islands.
- * Is in a very important position in the Conservation Area
- * Concerns about service access, litter, waste disposal, seagulls, noise, etc.

There are a total of 185 written representations to the application. Of those written representation there are 157 objections to the proposal: The main grounds of objection are:

- * Not all neighbours were notified
- * There are Enough food outlets in North Berwick and this could lead to a loss of earnings of those existing outlets;
- * Over commercialisation of North Berwick with nothing stopping numerous tables and chairs appearing around it;
- * There are existing empty outlets in the town centre which should be utilised first;
- * It would be an eyesore in a conservation area which would be a blot on the landscape and destroy the unique character of the sea front;
- * It would be an inappropriate development that will be intrusive and would spoil iconic views;
- * It would be contrary to national and local planning policy. In particular contrary to Policy ENV4 Would not preserve or enhance the character of the Conservation Area and to Policy DC1 – as not appropriate in scale or character for its proposed location;
- * The land is protected by Policy C3 of the adopted local plan and the proposal does not comply as there would be a significant loss of amenity and would impact on the landscape;
- * There are better sites for this proposal on East Bay;
- * It would increase parking problems;
- * It would become a meeting place for young people creating noise and rubbish and anti

social behaviour;

- * Litter may attract more gulls;
- * Smells of frying food;
- * Noise and smell from a generator;
- * Noise from the clients in the restaurant;
- * Light pollution;
- * Environmental issues;
- * Will increase demand for public toilets;
- * Set a precedent for other outlets along the bay;
- * Will become a permanent feature;
- * Concern about how toilet would be serviced and could lead to smells and odours;
- * Where will customers smoke;
- * Lack of services in the area;
- * No vehicular access to site and potential for damage by service vehicles;
- * Disturbance to local residents from deliveries;
- * Is this not Council owned land;
- * The land is common good land;
- * The applicant already has premises in North Berwick a short distance away;
- * Council should address parking issues in North Berwick before attracting more people to visit;
- * It's on public land and should not be used for private venture;
- * The site is on an area of "raised beach" which is very fragile and susceptible to damage. Due to proximity to the shore the increased use/pressure on the area will exacerbate coastal erosion;
- * Land is unstable and uneven would it require some digger use and concrete base;
- * Site is close to badly buried sewage pipe which may be incompatible with a food outlet;
- * Public place used by children, dogs and pedestrians;
- * It would deter people using the beach close to the proposed restaurant;
- * Removal of the structure will leave a footprint of disturbed ground that will be an eyesore;
- * Damage North Berwick's reputation as a tourist destination;
- * Potential for adverts appearing around the premises;
- * Could lead to deterioration of the putting green;
- * The type of food served would lead to an increase in obese people;
- * Site is used for temporary parking and storage during the Open Qualifying golf competition and annual dinghy competition. No other places to accommodate such event attendees.

Of the remaining 27 representations one neither objects nor supports the proposal and the remaining 26 are letters of support for the proposal. The letters of support can be summarised as:

- *the restaurant will enhance the facilities within North Berwick for eating and drinking for its expanding population and for visitors;
- *It is an attractive building that will enhance the area;
- *It will bring employment and opportunities and enhance the local economy;
- *The applicant has a proven track record for successful business ventures in North Berwick;

The statutory requirement for neighbour notification in respect of a planning application is that all neighbours within 20m of a proposal should be served with a notice. In respect of this application there are no neighbouring properties within 20m of the planning application. A notice was placed in the East Lothian Courier on 3rd March 2017 giving notice of the proposal and a site notice was displayed on land near to the site.

From Council records it is unclear who owns the area of land the subject of this application. However it is within an area of open space that is managed by East Lothian Council for the benefit of the local community and the visitors of North Berwick. The adjacent putting green is a facility that is managed by Enjoy Leisure and not by East Lothian Council.

The number of existing food outlets including some owned by the applicant in North Berwick are not material planning considerations in the determination of this planning application. Neither is the loss of earnings of those existing outlets or the matter of there being empty outlets in the town centre.

The matters of the facility becoming a meeting place for young people, anti social behaviour, smoking, litter, attraction of sea gulls, obesity, the proximity to a sewage pipe, lack of services, increasing demand for public toilets and that the applicant has existing premises are not material planning considerations in the determination of a planning application.

There are no associated advertisement applications for the siting of signage close to or on the site. Any such advertisement would require consent. If any applications were received they would be determined on their merits.

The Council's Environmental Health Manager advises that there are concerns about the issue of food safety and health and safety that have not been addressed by the applicant including concerns about the lack of sanitary accommodation for staff. However these matters are controlled through other legislation and are not matters relevant to the determination of this application.

The Council's Environmental Health Manager further advises that that any noise from plant or equipment should not exceed Noise Rating curve NR20 between the hours of 2300-0700 and NR25 between 0700-2300. He further advises that the details of any extraction system to be used should be submitted to and approved by the Planning Authority.

The proposed building would be positioned sufficiently far away from nearby houses on Beach Road and Pointgarry Road to ensure there would be no loss of amenity through overlooking, overshadowing or light pollution.

Scottish Natural Heritage advise that the proposal would not adversely affect the integrity of the Firth of Forth Special Protection Area. However, due to its positioning Scottish Natural Heritage advise that East Lothian Council must carry out an appropriate assessment of the impact of the proposal on the Special Protection Area. Such appropriate assessment was carried out and its findings can be summarised as: (i) Construction time will be minimal as the facility will be delivered and uplifted by truck at the start and end of each summer season. Therefore any construction disturbance will be short term and reversible; (ii) the site area is very small and is already subject to background levels of disturbance from its location on a popular recreation beach within a settlement; (iii) Operational disturbance would be in the context of existing activity at the beach location. This beach is within a settlement, close to homes and businesses, and used by many people for recreation. Nevertheless SPA birds use this area despite disturbance levels. The small scale of this proposal will not add significantly to the existing levels of disturbance at the site; and(iv) due to the location and small size of the proposal combined with the hours of operation, means that there will not be a significant increase in lighting levels.

Therefore from the appropriate assessment it can be concluded that the proposed

building would not have adverse affects on the integrity of the SPA and on this consideration the proposal is consistent with Policies NH1a, NH1b and DP13 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: June 2014.

On the matter of parking, the proposed building would create a restaurant with a public floor area of some 45 sq metres. The Council's Road Services advises that Council's Parking Standards, March 2008 seek that 1 space per 7 sq metres is provided for restaurant uses. As such this would amount a demand for 7 additional car parking spaces on street. Road Services recommend that a condition should be imposed on any grant of planning permission requiring that the applicant provide "7 car parking spaces in a location to be approved by the Head of Infrastructure".

There are no off-street car parking spaces on the application site and none can be provided as there is no available land there sufficient to accommodate them. The agent for the applicant has confirmed in writing that his client does not have land available to provide 7 parking spaces.

Notwithstanding the restaurant/takeaway use of the building would be likely to satisfy a demand from people already visiting this part of North Berwick. The existing facilities of the east and west beaches, the harbour and the Scottish Seabird Centre already attract many local people and visitors to the locality. It is unlikely that the proposed restaurant use would, in itself attract significantly greater numbers of people to the locality. It is unlikely that customers of the proposed restaurant would be drawn solely to it, but rather that they would be residents of North Berwick or persons visiting the town anyway. There would be seating for 12 customer inside the building and a further 15 customers outside on the area of decking to be formed to the front of the building. There is on-street parking provision on the public roads in the locality and parking provision elsewhere in the centre of the town. In light of all of this it would be unreasonable for the Council as Planning Authority to require the applicant to provide 7 car parking spaces in a location to be approved by the Head of Infrastructure.

In the circumstance of this case the proposed restaurant with takeaway element does not conflict with Policy DP22 of the adopted East Lothian Local Plan 2008.

With regards flooding Policy DP16 of the adopted East Lothian Local Plan states that in areas subject to flood risk there should be a presumption against forms of development particularly vulnerable to flooding. Development flood risk will be assessed in conjunction with SEPA taking account of local circumstances. Acceptable development must be designed to manage a 0.5% probability of flood risk and remain operational during such flood times.

The Scottish Environmental Protection Agency raise no objection to the application. However they note that the site lies adjacent to medium likelihood (0.5% annual probability or 1 in 200) year) flood extent of the SEPA Flood Map and may therefore be at medium to high risk of flooding. However, the development will be only at the location between April and September and will be elevated about the beach on an existing railway sleeper breaker wall. Due to the location of the site adjacent to the indicative flood envelope they advise that advice is sought from the Council's Flood Prevention Authority regarding the issue of flooding.

The advice from the Councils Flood Prevention Authority is that SEPA's Flood Map still water level does not take into account the effects of wave action, funnelling or local bathymetry which could cause a flood risk to the development. Furthermore, the proposed building would be sited adjacent to the sleeper sea wall which and such siting could cause structural issues to the sea wall. It could also affect the ability of the Council

to undertake maintenance work to the sea wall in the future. Therefore it can reasonably be concluded that the proposed building would be a risk to flooding and that the proposal is contrary to Policy DP16 of the adopted East Lothian Local Plan 2008.

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

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

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

The area of open space is adjacent to the North Berwick Golf Course and is seen as a continuation of the open expanse of the greens and fairways of the golf course. There is a putting green on a larger part of the area of open space with a hard formed footpath – “Rotary Way” - separating that putting green from the rough ground on the northern edge of the area of open space. The hard formed footpath leads from Beach Road on the east side of the area of open space around the perimeter of the putting green and over to the west end of Beach Road. The open and largely undeveloped appearance of the area of open space affords significant and valued public views over the foreshore of the West Bay beach and onto the Firth of Forth beyond. Consequently this area contributes significantly to the amenity and the landscape character of the area and the quality of the urban environment of the town of North Berwick and, importantly, its Conservation Area. As such it is an important element of the green infrastructure of North Berwick.

The advice from The Council's Landscape Projects Officer (Policy & Projects) is that the site is located within the North Berwick Conservation Area and within the proposed Port Seton to North Berwick Coast Special Landscape Area by the forthcoming Local Development Plan. The West Beach and the adjacent Links provide an open coastal undeveloped area creating the natural setting for the west side of the town of North Berwick. The existing development within this area is low scale and understated. The North Berwick Golf Club professional shop is set within the dunes, hidden in views out from the town towards the sea, with the starter's hut being a low stone built and dark coloured building. Several timber benches are positioned in this location to allow peaceful contemplation whilst looking out over the Forth and the island of Craigleith and back over North Berwick and its harbour with the Law to its south. The submitted montages clearly show the intrusive nature of the proposal. It shows that the proposal appears incongruous and out of place in both location and colour, sitting prominent and alone in this undeveloped coastal location. It will urbanise the existing undeveloped coast visually linking it with the existing built form of North Berwick. Therefore she advises that she cannot support this application on landscape grounds.

The Council's Landscape Projects Officer further advises that the presence of the restaurant will lead to an increase in foot traffic over the grass and dunes to access the restaurant which is likely to lead to new desire lines wearing away the fragile dune make up. Furthermore daily access will also be required to empty the toilet/waste water facilities adding to the traffic in and across the surrounding area. This could ultimately lead to the loss of sand and undermining of the dune structure. Due to the uneven surface of the ground, placing the container on the existing rough grass area could require levelling of the site and will lead to die back of the grass beneath. No information

has been provided on how this will be prevented and what the site will be left like during the winter season.

The application site forms part of a larger area of open space that contributes positively to the built environment of North Berwick and which makes a significant contribution to the amenity of and the landscape setting of this part of the town. The loss of this land even on a temporary basis between April and September would adversely affect its recreational and amenity potential. Provision of open space in this part of North Berwick is not in excess of existing and predicted requirements. Moreover, the applicant is not proposing alternative provision of open space of equal community benefit and accessibility. In light of this the proposal is contrary to Scottish Planning Policy 2014 and to Policy C3 of the adopted East Lothian Local Plan 2008.

By its longstanding presence as an undeveloped green space within the core of North Berwick its openness within an otherwise urban environment and by its location within the Conservation Area which allows important vistas over to the Firth of Forth, the area of open space at West Bay as a whole constitutes a prominent and distinctive feature which contributes positively to the character and appearance of the Conservation Area. The proposed siting of a structure on the area of open space would be prominent and intrusive in views from within the area of open space and also from Beach Road and Pointgarry Road. It would not be well integrated into its surroundings, it would not respect the landform and physical features of the site nor incorporate them into the development in a positive way. Neither would the proposed building be appropriate to its location in terms of positioning and form. Its presence would undermine the open nature of this area of open space and be harmful to the historic character and the appearance of this part of the Conservation Area. Furthermore, whilst the structure would be removed between the months September until April, both the Council's Landscape officer and the Principal Amenity Officer have raised concerns about the capability of the area of ground of supporting the structure without damage to the sand dune on which it would be located. They advise that it is likely that once removed an imprint of the structure would be left on the ground which would detract from the character and appearance of the area and be harmful to the character and appearance of the Conservation Area. Moreover, due to the site being of a sandy soil base, it may be likely that some engineering works would be required to strengthen the land to make it capable of accommodating the modified container. Such works would detract from and impact on the character and appearance of the area. Accordingly despite the proposal being for a seasonal period between April and September, the overall impact would be more long lasting if not permanent. In all of this the proposal would be harmful to the character and appearance of the Conservation Area. Therefore the proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policies DP1, DP2 and ENV4 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.

Furthermore, if approved the proposal would set an undesirable precedent for similar types of development along this part of the coastline of North Berwick and within other parts of East Lothian. The cumulative effect of such development would result in an unacceptable and detrimental impact on the landscape character of the coastline of East Lothian.

What is proposed within the building is both a restaurant with an element of takeaway use. The applicant informs that part of the takeaway sales would include some hot foods.

The proposed building would not be within North Berwick Town Centre (as defined in the adopted East Lothian Local Plan 2008) but is within an area of protected open space

defined by Policy C3 of the Local Plan.

Policy R3 (Hot Food Outlets) of the adopted East Lothian Local Plan 2008 states that the siting of a hot food take-away may be permitted where it is located within a town centre, other established shopping location, village centre or a local shopping area. It also states that there would be no harm to local amenity and it must not present a threat to road safety, and operating hours must not result in disturbance to local amenity.

The proposed building and therefore the proposed hot food takeaway would not be located within the town centre but would be located on an area of protected open space. In being located on that area of protected open space and as the presence of the building would affect the local amenity and landscape character of that area of open space it is therefore contrary to Policy R3 of the adopted East Lothian Local Plan 2008.

Beach Road is the closest public carriageway to the site and access to the restaurant for both customers and for deliveries would be from Beach Road via Rotary Way footpath then across the open space. The applicant has stated that deliveries from Beach Road will be by manual hand cart. The Council's Road Services advise that the proposal will lead to an increase in parking for loading and unloading demand as a result of deliveries and uplifts from and to the restaurant. These trips will most likely centre on Beach Road, potentially causing congestion due to increased traffic and inappropriate parking. As there is limited loading opportunity on Beach Road, Road Services advise that vehicles will need to stop on double yellow lines to load and unload. This would be a road safety issue contrary to Policies T2 and R3 of the adopted East Lothian Local Plan 2008.

Turning to other material considerations, the proposal would result in the establishment of a new restaurant, extending the choice of eating destinations within North Berwick. It would create some new employment and have some economic benefits. It would also provide a public toilet within this part of the town. However these benefits do not outweigh the clear conflict with development plan policy that has been identified above. Planning permission should therefore be refused.

REASONS FOR REFUSAL:

- 1 The application site forms part of a larger area of open space that contributes positively to the built environment of North Berwick and which makes a significant contribution to the amenity of and the landscape setting of this part of the town. The loss of this land even on a temporary basis between April and September would adversely affect its recreational and amenity potential. In light of this the proposal is contrary to Scottish Planning Policy 2014 and to Policy C3 of the adopted East Lothian Local Plan 2008.
- 2 The proposed building would be prominent and intrusive in views from within the area of open space and also from Beach Road and Pointgarry Road. Its presence, even on a temporary basis between April and September, would undermine the open nature of this area of open space and would be harmful to the historic character and the appearance of this part of the Conservation Area. Consequently the proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policies DP1, DP2 and ENV4 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: June 2014.
- 3 If approved the proposal would set an undesirable precedent for similar types of development along this part of the coastline of North Berwick and within other parts of the coastline of East Lothian. The cumulative effect of such development would result in an unacceptable and detrimental impact on the landscape.

- character of the coastline of East Lothian.
- 4 The proposed building and therefore the proposed hot food takeaway would not be located within the town centre of North Berwick but would be located on an area of protected open space. In being located on that area of protected open space and as the presence of the building would affect the local amenity and landscape character of that area of open space, the proposal is contrary to Policy R3 of the adopted East Lothian Local Plan 2008.
 - 5 The proposal will lead to an increase in parking for loading and unloading as a result of deliveries and uplifts to and from the restaurant. These deliveries will centre on Beach Road, which has limited opportunities for loading and unloading. Such loading and unloading is therefore likely to create congestion and a hazard to road safety, contrary to Policies T2 and R3 of the adopted East Lothian Local Plan 2008.
 - 6 In its proposed position, the proposed building could cause structural issues to the adjacent sea wall and could affect the ability of the Council to undertake maintenance work to the sea wall in the future. Consequently the proposed development constitutes a flood risk, contrary to Policy DP16 of the adopted East Lothian Local Plan 2008.

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

REPORT TO: Planning Committee

MEETING DATE: Tuesday 6 June 2017

BY: Depute Chief Executive (Partnership and Community Services)

SUBJECT: Application for Planning Permission for Consideration

4

Note - this application was called off the Scheme of Delegation List by David Berry, former Councillor for North Berwick Coastal Ward, for the following reasons: there is significant local concern that any development in this sensitive conservation area should go to Committee for a decision.

Application No. 17/00180/P

Proposal Erection of clock totem structure (retrospective)

Location Land Adjacent To North Berwick Golf Clubhouse
Beach Road
North Berwick
East Lothian
EH39 4BB

Applicant The North Berwick Golf Club

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

North Berwick Golf Club is located on the north side of North Berwick and runs for some 2.3 miles along the coast from the west end of Beach Road to the west end of Abbotsford Road.

This application relates to an area of Golf Club land that is between the starter's box and the professional golf shop of North Berwick Golf Club. The area of land is also located in close proximity to the first tee of the golf course. The site is within the North Berwick Conservation Area.

Planning permission is retrospectively sought for a totem clock that has been erected on the application site. The totem clock structure has an overall height of 2.8 metres, a width of 1.2 metres and a depth of 0.14 metres. The clock mechanism is recessed within the top half of the totem. The clockmaker's branding is also featured on the totem which is composed of a black-coloured aluminium material.

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

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

Policy 1B (The Spatial Strategy: Development Principles) of the South East Scotland Strategic Development Plan (SESplan) and Policies DP2 (Design) and ENV4 (Development within Conservation Areas) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

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

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

Seventeen objections have been received to the application. Objections relate to the design and scale of the totem clock structure, its impact on the character and appearance of the Conservation Area and its illuminated nature. The need for an additional clock near the starters box is questioned. Objection is also made with regards to the use of branding on the totem which it is considered constitutes an advertisement.

In respect of the latter reason for objection, the totem clock displays the name of the clock manufacturer. However the principal use of the structure is as a clock, and not as an advertisement for the clock manufacturer. The structure therefore is development that requires planning permission.

The North Berwick Community Council raise objection to the totem clock. They are of the opinion that the structure is inappropriate within its sensitive setting and that the structure comprises of subliminal advertising. They are also opposed to the internal illumination of such structures.

In its position, the totem clock is visible within public views from the surrounding area. As part of the determination of the application, an assessment of the impact of the structure from surrounding viewpoints has been undertaken. In this regard, when viewed from the public road of Links Road, the totem clock is seen in the context of the golf course and its existing built development and as such does not cause undue harm to the overall character and appearance of the area. When viewed from the east along the John Muir Way footpath, views of the clock totem are partly obscured by the starters box, and where the structure is visible, it is side on, and as such the slender depth of the structure at 0.14 metres means that it is not unduly prominent within the surrounding area. Furthermore, when viewed from the public right of way along the beachfront to the north, the totem clock is seen against the backdrop of properties along Links Road and

Pointgarry Road to the south and as such again does not appear as unduly prominent. In conclusion, the totem clock does not appear as an unacceptably prominent or intrusive feature and does not harm the character or appearance of the North Berwick Conservation Area.

The area within which the totem clock is located is not well illuminated by lighting during hours of darkness. The totem clock has the potential to be illuminated. If it were to be illuminated, then the totem clock would appear as a prominent and incongruous feature during hours of darkness. As such it would be harmful to the character and appearance of this part of the North Berwick Conservation Area. To safeguard against this, a condition of the grant of planning permission should be that the totem clock should not be illuminated.

Subject to it being non-illuminated, the totem clock is consistent with Policy 1B of the South East Scotland Strategic Development Plan (SESplan) and Policies DP2 and ENV4 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: June 2014.

CONDITION:

- 1 The totem clock structure hereby approved shall not be illuminated internally or externally at any time.

Reason:

In the interest of the character and appearance of the North Berwick Conservation Area.

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

REPORT TO: Planning Committee
MEETING DATE: Tuesday 6 June 2017
BY: Depute Chief Executive (Partnership and Community Services)
SUBJECT: Application for Planning Permission for Consideration

5

***Note** - this application was called off the Scheme of Delegation List by Councillor McMillan for the following reasons: the building at 21 Sidegate, Haddington is the Old Manse of St Mary's Kirk. It occupies a secluded site, not visible from Sidegate. The proposed removal of the buffet recess is part of internal work to make the building more sustainable in the future, and adaptable for modern lifestyle. The owners are making a substantial investment in the property, and I believe the Planning Committee should hear their proposals which affect the long-term future of the building.*

Application No. 17/00087/LBC
Proposal Removal of condition 4 of listed building consent 16/00691/LBC
Location The Old Manse
21 Sidegate
Haddington
East Lothian
EH41 4BZ
Applicant Mr and Mrs Chris and Emily Stevens
Per Derek Scott Planning

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

The property to which this application relates is a two storey detached building that is listed as being of special architectural or historic interest (Category B).

In December 2016, listed building consent (Ref: 16/00691/LBC) was granted for a number of internal and external alterations to the building and for the addition of a single storey flat roofed extension onto the rear (north) elevation of the building.

The internal alterations proposed in application 16/00691/LBC for the ground floor of the listed building included the removal of part of the buffet recess wall at the north end of the living room in the ground floor of the building.

Historic Environment Scotland (HES) in their consultation response to application 16/00691/LBC, stated that the living room (former dining room) retains an original buffet recess with its own cornice flanked by pilasters and twin doors which is an important feature found in grander houses of this date and recommend that it is retained in-situ with access to the reconfigured kitchen taken through the original doors either side. They also added that this would better retain the character of the principal room and cellular nature of the historic house.

Therefore to safeguard the special architectural or historic interest of the listed building, listed building consent 16/00691/LBC was granted in December 2016 subject to a number of conditions; one of which (Condition 4) was that the buffet recess wall shall not be removed. Condition 4 states that:

'Listed building consent is not hereby granted for the removal of part of the buffet recess wall at the north end of the living room in the ground floor of the building.

Reason:

The proposed removal of part of the living room buffet recess wall would result in the loss of historic fabric of the building to an extent that would be harmful to the special architectural or historic interest of the listed building, contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy ENV3 of the adopted East Lothian Local Plan 2008, The Scottish Historic Environment Policy Statement: June 2016 and Scottish Planning Policy: June 2014'.

Listed building consent is now sought for the deletion of Condition 4 of listed building consent 16/00087/LBC to allow for the removal of the internal buffet recess wall at the north end of the living room in the ground floor of the building.

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

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

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policy ENV3 (Listed Buildings) of the adopted East Lothian Local Plan 2008 are relevant to the determination of this application.

Material to the determination of the application is Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building given in the Historic Environment Scotland Policy Statement June 2016 and Scottish Planning Policy: June 2014.

The Historic Environment Policy Statement and Scottish Planning Policy echo the statutory requirements of Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant listed building consent for any works to a listed building the planning authority shall have special regard to the desirability of preserving the building or any features of special architectural or historic interest which it possesses.

One letter of objection to the application has been received. The objection states that the buffet recess wall should be retained, without any alteration being made to it, and thus urges that condition 4 of listed building consent 16/00691/LBC be refused. The objection

also states that there is already a broad and direct passage, via one of the two twin doors which flanks the west side of the buffet recess, which serves as a discreet link between the kitchen and the dining room without seeking to destroy the original servery layout. Instead, it is proposed to transform the buffet recess into a wide central passageway between the two large rooms, supplanting the buffet recess as the designed central focus of the former dining room, damaging the special interest of the finest interior space of this listed building. Moreover, the objection makes a number of comments in response to the supporting statement that is submitted with this listed building consent application.

The applicant's agent, in his supporting statement submitted with this application, states that the property was built in the early 19th Century rather than in the late 18th Century as stated in the list description on Historic Environment Scotland's website. Moreover he states that it is his view and that of his client's, that Condition 4 of listed building consent 16/00691/LBC should not have been imposed and cite the following considerations in support of the request to remove this condition:

- (i) there is no reference in the description of the listed building on the statutory list to any features of special architectural or historic interest within the interior of the building, including the buffet recess feature;
- (ii) the proposed opening in the wall will not result in the loss of the buffet recess feature or in the decorative features which surround it;
- (iii) the proportions and spatial dimensions of the room, as existing, can still be enjoyed when the doors to be installed in the proposed opening are in the closed position;
- (iv) the wall which presently forms the rear of the buffet recess feature could be easily reinstated at any point in the future; and
- (v) the benefits to his clients of forming the link are unquantifiable in terms of creating a functional interconnected living space as opposed to the compartmentalised and fragmented situation which presently exists.

The applicant's agent also makes reference to two appeal decisions; one at 29 Regent Terrace in Edinburgh (Ref: LBA-230-2078) and the other at 149 Constitution Street in Edinburgh (Ref: LBE-230-2003).

The appeal made against the City of Edinburgh Council's decision to refuse listed building consent for internal alterations to form connecting doors in the living room and dining room at ground floor level within the building at 29 Regent Terrace was dismissed by the Reporter on the grounds that the proposed opening between the dining and living rooms would unacceptably detract from the historic and architectural interest of the building by disrupting a very significant feature of its original floor plan. It was also stated that there is an alternative, and more sympathetic, means of connecting the living and dining rooms and that other planned improvements to the building could still be delivered.

In respect of the appeal made against the listed building enforcement notice served by the City of Edinburgh Council against the formation of an opening, with dividing doors, in the buffet recess feature between the two front rooms of the flat at 149 Constitution Street. In that case, the Reporter allowed the appeal, directed that the listed building enforcement notice be quashed, and granted listed building consent for the matters covered in the listed building enforcement notice. The Reporter allowed this appeal as he considered that there was no evidence to suggest that the formation of the opening has resulted in the loss of a rare buffet access feature within the building. In relation to the effect of the formation of the opening on the character of the listed building, The Reporter concluded that whilst the character of the two front rooms has changed with the replacement of the part of the separating wall by double doors, the buffet recess has

been retained. He also concluded that the overall effect is not incongruous when viewed from the dining room, as the new doors and architraves match existing doors.

Notwithstanding the references made to these two specific appeals, the Scottish Historic Environment Policy Statement: June 2016 states that 'Each case must be judged on its own merits but in general terms listing rarely prevents adaptation to modern requirements but ensures that work is done in a sensitive and informed manner.'

Historic Scotland in their consultation response to this application state that, as was noted in their last letter, the buffet recess wall is an important feature within the B listed house. The desire to retain such features is not based on outdated views on how a house or its occupants should function but purely on retaining an important part of the building's special interest. Dining rooms in grander houses of this date often have a buffet recess whilst other dining rooms within houses of flats may have bowed ends or simply twinned doors. The dining room was one of the principal rooms within a house of this date and was very rarely linked to adjacent rooms. This particular buffet recess is enhanced with pilasters and has its own internal cornice, making it a particularly handsome example. In this case, the retention of the recess doesn't prevent linkage as there are twinned doors either side of it, allowing free passage between the dining room and proposed kitchen. This option would preserve the character and special interest of the building. Accordingly, they recommend that Condition 4 of listed building consent 16/00691/LBC is not removed.

The removal of part of the living room buffet recess wall and the installation of bi-fold doors within it would result in the loss of historic fabric of the building to an extent that would be harmful to the special architectural or historic interest of the listed building. In this there is no material change in circumstance since the determination of listed building consent 16/00691/LBC.

Accordingly, the deletion of Condition 4 of listed building consent 16/00691/LBC to allow for the removal of the internal buffet recess wall at the north end of the living room in the ground floor of the building would be contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy ENV3 of the adopted East Lothian Local Plan 2008, The Scottish Historic Environment Policy Statement: June 2016 and Scottish Planning Policy: June 2014.

RECOMMENDATION:

That listed building consent be refused for the following reason:

- 1 The proposed removal of part of the living room buffet recess wall would result in the loss of historic fabric of the building to an extent that would be harmful to the special architectural or historic interest of the listed building, contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy ENV3 of the adopted East Lothian Local Plan 2008, The Scottish Historic Environment Policy Statement: June 2016 and Scottish Planning Policy: June 2014.

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