

**REPORT TO:** Planning Committee

**MEETING DATE:** Wednesday 28 June 2017

**BY:** Depute Chief Executive (Partnerships and Community Services)

**SUBJECT:** Application for Planning Permission for Consideration

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Application No. **17/00047/AMM**

Proposal Approval of Matters Specified in Conditions of planning permission in principle 14/00431/PPM - Erection of 120 houses and associated works

Location **Land At Limeylands Road  
Ormiston  
East Lothian**

Applicant BDW Trading Limited

Per EMA Architecture and Design

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

Although this application is for the approval of matters specified in conditions of planning permission in principle 14/00431/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the number of dwellings detailed is greater than 49. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

This application relates to some 8 hectares of agricultural land which forms the western part of a larger area of agricultural land on the north side of Limeylands Road, on the northwestern edge of Ormiston.

The site is bounded to the north by scrubland, to the east by the remainder of the larger area of agricultural land of which the site is a part, to the south by residential properties of George Crescent and a length of Limeylands Road, and to the west by a pedestrian track. A number of trees on the southern boundary of the site with Limeylands Road

are the subject of individual Tree Preservation Orders.

In January 2015 planning permission in principle 14/00431/PPM was refused by East Lothian Council for a residential development of 120 houses on the application site. That decision was subsequently appealed to the Scottish Government Directorate for Planning and Environmental Appeals. On 10 January 2017, following the conclusion of a legal agreement to secure education and affordable housing contributions, the appeal was allowed and planning permission in principle 14/00431/PPM was granted. Condition 9.1 of planning permission in principle 14/00431/PPM states that no more than 120 residential units shall be erected on the application site.

Approval of matters specified in conditions of planning permission in principle 14/00431/PPM is now sought for erection of 120 houses and associated works on the application site.

Of the 120 houses to be erected within the site, 90 would be detached, 10 would be semi-detached and 20 would be terraced. In terms of size, 85 of the 120 proposed houses would contain 4 bedrooms, 17 would contain 3 bedrooms and 18 would contain 2 bedrooms. The proposed development would include for 10 single storey houses, the provision of single storey houses being a requirement specified in condition 1.2 of planning permission in principle 14/00431/PPM. All the other houses would be two-storey.

Of the 120 houses there would be a total of 90 private houses for sale. The houses would comprise of 13 different house types, including the provision of 30 affordable housing units which would be a mix of 2 bedroom bungalows and 2 and 3 bedroom houses of two different house types.

The submitted details also include for the internal access roads, garages, parking courts, boundary treatments, landscaping, areas of open space and SUDS.

Vehicular, pedestrian and cycle access to the houses would be taken by way of a new access junction from Limeylands Road.

The north, east and west boundaries of the site would be landscaped with new woodland tree planting. Existing trees on the boundary of the site with Limeylands Road would, where possible, be retained. A large area of open space would be formed centrally within the site and other areas of open space would be formed on the northern, western and southern parts of the site. A SUDS basin would be formed in the northeast corner of the site.

There is no area indicated for equipped play within the site as in the determination of planning permission in principle 14/00431/PPM, it was deemed to be not required.

The application is supported by an Ecological Assessment, a Design and Access Statement, Site Investigations Reports, an Archaeological Evaluation report, a Flood Risk Assessment Noise Assessment and a Tree Survey and Report.

Subsequent to the registration of this application, further drawings have been submitted showing revisions to the site layout including a change to the mix of residential units.

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 H1 (Housing Quality and Design), DP1 (Landscape and Streetscape Character), DP2 (Design), DP14 (Trees on or Adjacent to Development Sites), DP15 (Sustainable Urban Drainage Systems), C1 (Minimum Open Space Standard for new General Needs Housing Development), T2 (General Transport Impact), DP20 (Pedestrians and Cyclists), DP22 (Private Parking) and DP24 (Home Zones) of the adopted East Lothian Local Plan 2008.

A material consideration is the supplementary planning guidance of "Design Standards for New Housing Areas" approved by the Council on 10th 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 this application is the Scottish Government Policy Statement entitled "Designing Streets". It provides an overview of creating places, with street design as a key consideration. It advises on the detail of how to approach the creation of well-designed streets and describes the processes which should be followed in order to achieve the best outcomes.

Two written representations have been received in respect of this application, both of which raise objection to the proposed development.

A copy of the written representations is contained in a shared electronic folder to which all Members of the Committee have had access.

The main grounds of objection are summarised as follows:

- \* The proposed development would lead to a loss of residential amenity and the ability of an objector to sell their property prior to and during site construction; and
- \* There would be pressure on the local road network, the medical centre and in the local schools to accommodate the proposed development;
- \* The proposed development would lead to traffic problems and thus would result in a road and pedestrian safety hazard; and
- \* The proposed development may harm trees and bats.

The ability of an objector to sell their property is not a material consideration in the determination of a planning application.

By the grant of planning permission in principle 14/00431/PPM, approval has been given for the principle of the erection of 120 houses on the application site following technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. There can therefore be no objection in principle to the erection of the 120 houses now proposed.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development, the landscaping of and means of access to the site and the means of any enclosure of the boundaries of the site. In this regard the detailed proposals have to be considered against relevant development plan policy and the Design Concept and conditions attached to planning permission in principle 14/00431/PPM.

The proposed residential development would form an extension to the north-western edge of Ormiston. It would be seen in relation to the existing housing on the north and south sides of Limeylands Road and the new housing development immediately to the south of the application site which is currently under construction. In all of this, the proposed residential development would not be out of keeping with the character of the settlement and local area.

Paragraph 2.6 of the "Design Standards for New Housing Areas", approved by the Council on 10th March 2008, states that new housing development must create a hierarchical, permeable and interconnected street layout that complements and should extend the surrounding street pattern. Such layouts spread vehicle traffic evenly through a site and to the surroundings, help prevent localised traffic congestion, and encourage walking and cycling. Proposed street layouts must maximise connections within the site and to surrounding streets, and ensure the movement requirements of the development strategy are met. By the design and arrangement of street types, street layouts must influence vehicle drivers preferred route choice to ensure the tertiary streets between residential blocks are less busy. In paragraph 2.9 it is stated that Home Zones must be introduced to new development as part of a hierarchical, permeable and interconnected street layout.

The houses and associated areas of ground, in their proposed groupings, orientations, and layout would be consistent with the principles of 'Home Zones' as set out in the Council's Design Standards for New Housing Areas and with the Scottish Government Policy Statement entitled "Designing Streets". The proposed layout of roads, pathways and parking spaces would also generally be consistent with those principles.

The details now submitted for approval are for a scheme of development comprising a mix of detached, semi-detached and terraced houses (13 types of residential units), with the houses being a mix of single and two stories in height. The total number of units proposed accords with the planning permission in principle granted for the site and the mix of residential units includes a range of sizes and types. The layout reflects the surrounding area, which is generally characterised by detached, semi-detached and terraced houses of a mix of single and two-storey.

The range of house types proposed would give a variation of architectural form to the development, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development. The architecture of the proposed houses is of a traditional pitched roof form. It should be ensured that the use of render is the predominant wall finish as this would respect the built form of other housing developments in Ormiston. 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 a grant of approval of matters specified in conditions for the proposed development to address these matters of wall finishes.

The proposed layout is broadly consistent with the layout shown in the Design Concept docketed to planning permission in principle 14/00431/PPM. The proposed houses,

due to their positioning on the application site and by virtue of their height, size and scale, and architectural design would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. This coupled with the proposed landscaping would ensure a visually attractive and cohesive development, with the proposed houses visible but not appearing incongruous or intrusive in their surroundings. The other components of the proposed development would not be harmful to the character and appearance of the area.

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

The application site is capable of accommodating all of the houses without being an overdevelopment of the site and without being incompatible with the density of existing housing development in the area.

The proposed development has been amended in light of comments received from the Council's Landscape Project Officer. The revised proposals have:

- \* Amended details of the tree protection measures for the protected trees on the south boundary of the site with Limeylands Road;
- \* Provided a detailed landscaping scheme for the site including information on species and maintenance of landscaped areas; and
- \* Provided a tree survey and arboricultural constraints plan to address the treatment of trees growing in the southwest corner of the site.

The Landscape Project Officer does not object to the details of the development now proposed, but she does require that conditions be imposed on a grant of planning permission to ensure that tree maintenance, landscaping, tree protection measures and arboricultural monitoring are carried out in accordance with that shown on the application submissions. Such measures can be secured by the imposition of conditions on the approval of matters specified in conditions for the proposed housing development.

The Council's Environment Health Manager raises no objection to the application, satisfied that the proposed development would not result in a loss of amenity to any neighbouring or nearby residential property.

On all of these foregoing findings on matters of design, layout, landscaping and amenity, and subject to the imposition of conditions, the proposed development is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies H1, DP1, DP2, DP14 and DP24 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".

As previously detailed, the proposed site layout includes areas of open space to be formed within the site. The Council's Principle Amenity Officer advises that the size and locations of the areas of open space proposed are satisfactory to provide for informal recreation for the proposed development. It is therefore consistent with Policy C1 of the adopted East Lothian Local Plan 2008.

The Council's Biodiversity Officer advises the application site has very few natural features and, as the applicant's submitted ecology report states, has limited value for wildlife. The Biodiversity Officer further advises that the ecology report looked specifically at the trees on the southern boundary and concluded that they had negligible value for roosting bats. The Biodiversity Officer concurs with this stating that there are no other features within the site where bats could roost. He advises that it is entirely likely that bats could have been seen foraging around the site, but that is not the same as roosting on site, and that the proposed development would not reduce the foraging capacity of the area, nor would it reduce the roosting potential of the site. In fact, it is the Biodiversity Officer's view that the proposed development is likely to enhance the value of the site for biodiversity.

Condition 5 of planning permission in principle application 14/00431/PPM requires the applicant to submit a programme of archaeological evaluation of the site prepared by an accredited archaeologist or archaeological organisation, and thereafter secure the implementation of the programme to the satisfaction of the Planning Authority.

A written scheme of investigation has been submitted with the application. The Council's Archaeology Officer advises that this written scheme of investigation has been undertaken to inform the required programme of archaeological evaluation and therefore this is still yet to be undertaken. The requirements to submit the programme of archaeological evaluation and secure the implementation of the programme are embodied in Condition 5 of planning permission in principle 14/00431/PPM and therefore remain in force. Thus there is no requirement to also secure this again through a condition attached to this approval of matters specified in conditions application.

The principles of the means of accessing of the proposed residential development are already decided by the grant of planning permission in principle 14/00431/PPM. The submitted details for accessing the proposed residential units are in accordance with these principles established by the grant of planning permission in principle 14/00431/PPM.

The Council's Road Services raise no objection to the submitted details, being satisfied that the proposed development can be safely accessed by both cars, pedestrians and cyclists, that the development would not result in unacceptable traffic congestion on the local road network, and that it would not result in a road or pedestrian safety hazard. They advise that the location and amount of parking within the site is acceptable.

Condition 2 of planning permission in principle 14/00431/PPM requires the submission of a Green Travel Plan, to have particular regard to provision for walking, cycling and public transport access to and within the site. A Green Travel Plan has been submitted with the application and Road Services confirm it is acceptable.

Condition 3 of planning permission in principle 14/00431/PPM requires a Construction Method Statement be submitted to minimise the impact of construction activity on the amenity of the area prior to the commencement of development. A Construction Method Statement has been submitted with the application and Road Services confirm it is acceptable.

Condition 4 of planning permission in principle 14/00431/PPM requires that, (i) a continuous 2 metre wide footway shall be formed and made available for use on the south side of Limeylands Road. The footpath shall extend from the western end of the existing footway on the south side of Limeylands Road to a position opposite the vehicular access junction into the application site from Limeylands Road and shall

incorporate dropped kerbs where necessary, (ii) a raised table crossing shall be formed over Limeylands Road to provide pedestrian access to the application site from the new footway to be formed on the south side of Limeylands Road in accordance with i) above, and (iii) the existing traffic calming measures provided on Limeylands Road shall be extended along the site frontage. The application drawings show the provision of all the requirements of Condition 4 of planning permission in principle 14/00431/PPM and Road Services confirm they are acceptable.

On these foregoing transportation and other access considerations the proposed residential development is consistent with Policies T2, DP20 and DP22 of the adopted East Lothian Local Plan 2008.

Condition 6 of planning permission in principle 14/00431/PPM requires the submission of a comprehensive contaminated land investigation. The Council's Environmental Health Contaminated Land Officer has appraised the Site Investigation Reports submitted with the application and advises he is satisfied with the work that has been carried out. However he advises that further investigation is required for gas monitoring to update the gas risk assessment. As the reports must be updated to include further site-specific risk assessments of all relevant pollutant linkages the Environmental Health Contaminated Land Officer confirms the requirements of Condition 6 have not been met. The further provision of an updated Site Investigation Report to include a site-specific risk assessment of all relevant pollutant linkages are embodied Condition 6 of planning permission in principle 14/00431/PPM and therefore remain in force. Thus there is no requirement to also secure this again through a condition attached to this approval of matters specified in conditions application.

Condition 8.1 of planning permission in principle 14/00431/PPM requires a scheme of intrusive investigation works to be submitted to and approved in writing to assess ground stability in relation to any former mine workings at the site, and then completed. Condition 8.2 requires that in the event that the intrusive investigation works identify the need for remedial works to treat any areas of shallow mine workings, the Planning Authority will immediately be informed, and development shall not begin until a scheme of remedial works on the site has been submitted to and approved in writing by the Planning Authority, and thereafter have been fully implemented as so approved.

The Coal Authority has appraised the Site Investigation Reports submitted with the application and advise that they are satisfied that appropriate intrusive investigations have been carried out to establish the situation regarding coal mining legacy at the site. However, in order to comply with the requirements of Condition 8.2 of planning permission in principle 14/00431/PPM, The Coal Authority state that a detailed scheme of remedial works must be provided prior to the commencement of development of the site. The requirement for the redial work identified in the submitted Site Investigation Reports is embodied Condition 8.2 of planning permission in principle 14/00431/PPM and therefore remains in force. Thus there is no requirement to also secure this again through a condition attached to this approval of matters specified in conditions application.

The Scottish Environment Protection Agency has been consulted on the application and raise no objection to the proposed development on the matter of surface water drainage, advising that the proposed methodology for dealing with surface water drainage at the site is satisfactory.

Condition 7 of planning permission in principle 14/00431/PPM requires the submission of, (i) a topographic site survey of the site in metres AOD which includes the watercourse channel bank and bed levels, (ii) the provision of flood levels on the site in

metres AOD, and (iii) the provision of a detailed site plan and proposed finished floor levels of the residential units, all to assess the risk of flooding on the site.

To address this, the applicant has submitted a Flood Risk Assessment with confirmation of flood levels, topographic survey and detailed site plans with proposed finished floor levels of the residential units. The Scottish Environment Protection Agency (SEPA) have appraised the submitted information and advised that the housing would be sufficiently elevated above all predicted levels on site. As such, SEPA now raise no objection to the proposals, being satisfied that the development would not constitute a flood risk.

The mechanism of a financial contribution towards additional educational provision at Ormiston Primary School and Ross High School for a housing development of 120 residential units has already been secured through the grant of planning permission in principle 14/00431/PPM.

The mechanism of the provision within the residential development of 25% affordable housing units (i.e. 30 units of the proposed 120 units) is already secured through the grant of planning permission in principle 14/00431/PPM.

The Council's Economic Development and Strategic Investment service raise no objection to the details of the 30 affordable housing units now proposed.

#### RECOMMENDATION:

That approval of matters specified in conditions for the proposed housing development be granted subject to the following conditions:

#### 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 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions, a detailed specification of all external finishes of the houses of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and



with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the houses shall conform to the details so approved.

Reason:

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

- 3 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces and footpaths shall have been constructed on site, in accordance with the docketed drawings and 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 shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

- 4 A timetable for the provision of the erection of the 1.8 metre high boundary enclosures for the rear gardens of the houses hereby approved shall be submitted to and approved in advance by the Planning Authority and development shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of the boundary enclosures in the interest of safeguarding the privacy and amenity of future residents of the development.

- 5 Prior to the occupation of any of the residential units hereby approved a timetable for the implementation of all the open space recreation areas indicated on the docketed site layout plan shall be submitted to and approved in advance by the Planning Authority and the open space recreation areas shall be formed and made available for use in accordance with the timetable so approved.

The open space recreation areas shall thereafter be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

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

- 6 No development shall commence until temporary protective fencing has been erected in accordance with that shown in Section 3 and Appendix 1 of the docketed 'Tree Survey & Arboricultural Impact Assessment For Trees at Limeylands Road, Ormiston' and in the positions shown for it on docketed drawings nos. 3412ZZZU-01 Prot (1 of 2) and 3412ZZZU-01 Prot (2 of 2). The temporary protective fencing shall remain intact and in place through to completion of development.

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

Reason:

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

- 7 No development shall commence until a person who, through relevant education, training and experience, has gained recognised qualifications and expertise in the field of trees in relation to construction, has been employed by the developer to monitor any works within the root protection area or canopy spread of trees on or adjacent to the application site. Arboricultural monitoring shall including the supervision and reporting to the Planning Authority on the installation of the tree protection fencing and any development within the root protection area of trees to be retained.

Reason:

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

- 8 No trees, shrubs or hedgerows which are to be retained on the site, other than the four trees with tag reference numbers 702 (Field Maple), 703 (Oak), 705 (Elm) and 706 (Elm) as shown on docketed drawing no. 3412ZZZU-01 Prot (1 of 2), shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

All tree management works shall be carried out under the supervision of an appointed Arboricultural Consultant in compliance with British Standard 3998: 2010 "Tree work ~ Recommendations" Section 7, Pruning and related work and Figure 2 - Positions of final cuts; leaving an overall balanced tree shape on completion of the works.

Reason:

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

- 9 All new planting as shown on docketed drawings nos. C16-229 L003 Rev. A, C16-229 L004 Rev. A, C16-229 L005 Rev. A, C16-229 L006 Rev. A, C16-229 L007 Rev. A and C16-229 L008 Rev. A shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

All the new planting shall be maintained in accordance with the maintenance programme as detailed on docketed drawing no. 095.43.01f.

Reason:

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

- 10 Prior to the commencement of development a detailed maintenance and management plan for all the existing planting, and the new planting as required by Condition 9 above shall be submitted to and approved in writing by the Planning Authority. The maintenance and management plan shall include a scaled coloured plan with the plot numbers shown and a key that clearly shows all communal landscape areas, including; woodland, native mixed hedgerows, amenity hedgerows, street trees, shrubs, meadows and lawns. All tree tag numbers shall be shown on this plan. The new planting shall thereafter be maintained and managed in accordance with the detail so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

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