



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

**TUESDAY 6 JUNE 2017  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

Councillor N Hampshire (Convener)  
Councillor L Bruce  
Councillor S Currie  
Councillor J Findlay  
Councillor W Innes  
Councillor S Kempson  
Councillor C McGinn  
Councillor K McLeod  
Councillor J McMillan  
Councillor F O'Donnell  
Councillor B Small

**Other Councillors Present:**

Councillor A Forrest  
Councillor J Goodfellow

**Council Officials Present:**

Mr I McFarlane, Service Manager – Planning  
Mr D Irving, Senior Planner  
Ms E Taylor, Planner  
Mr C Kiely, Planner  
Mr N Millar, Planner  
Mr M Greenshields, Transportation Planning Officer  
Mr G Talac, Transportation Planning Officer

**Clerk:**

Ms F Currie (Items 1 – 3)  
Ms S Birrell (Items 4 – 5)

**Visitors Present:**

Item 1 – Mr T Thomas, Mr A Bowie, Ms C Tulloch, Mr A Crummey, Mr M White  
Item 2 – Mr T Thomas, Ms D Arthur, Mr J Dillon, Mr T Drysdale  
Item 3 – Mr S Stewart, Ms C Finlayson, Mr J Hunt, Mr T Todd  
Item 4 – Mr C Spencer, Mr T Todd  
Item 5 – Mr D Scott

**Apologies:**

Councillor T Trotter

**Declarations of Interest:**

Councillor Findlay declared an interest in Items 1 and 2 as a result of comments made in his previous role as Chairman of the Gullane Area Community Council. He understood that he could not take part in the vote on either application but he indicated his intention to speak as a Local Member. The Convener advised Councillor Findlay that once he had made his statement, he must then leave the Chamber for the remainder of that item of business.

**1. PLANNING APPLICATION NO. 16/00594/PPM: PLANNING PERMISSION IN PRINCIPLE FOR RESIDENTIAL DEVELOPMENT, SCHOOL CAMPUS LAND, OPEN SPACE AND ANCILLARY WORKS, LAND AT SALTCOATS FIELD, GULLANE**

A report was submitted in relation to Planning Application No. 16/00594/PPM. Daryth Irving, Senior Planner presented the report, summarising the key points of the application. He stated that no objections had been raised by the Education Department, subject to the appropriate developer's contributions, and NHS Lothian had confirmed that there was sufficient capacity in the existing local GP services. He confirmed that the proposals were in line with the Council's proposed Local Development Plan (LDP) and he asked the Committee to approve the report recommendation to grant consent for the application subject to the finalised section 75 agreement and the conditions as outlined in the report.

In response to questions from Members Iain McFarlane, Service Manager – Planning, advised that although the proposed LDP was still under review by the Scottish Government Reporter, legal advice had confirmed that the Council retained the right as decision-maker to make a determination on an application. He said that taking into account all of the material considerations including the Council's Interim Guidance on Housing Land, and technical assessments carried out, it would be appropriate for Members to grant planning permission for both Gullane applications and doing so would not, by reasons of location or scale, prejudice the outcome of the LDP. He reminded Members that one of the central tenets of the proposed LDP was a compact development strategy which, if unravelled, would result in the dispersal of additional development to the east of the county.

Responding to further questions, Mr McFarlane and Mr Irving outlined the land supply requirements associated with the proposed LDP, the number of the representations received on this application and the estimated population growth as a result of the development and implications for local GP services.

Tony Thomas of APT Planning & Development, agent for the applicant, outlined the background to the application. While he acknowledged that the scale of the combined developments proposed would be a step-change for Gullane, they were in line with proposals in other areas and would provide much needed social housing in the village. He referred to other benefits for the local community and to the steps taken to address concerns over traffic and other matters.

In response to questions from Members Mr Thomas provided further information on responses received as part of the pre-application consultations, the type of affordable housing, the timing of the application in relation to other developments in Gullane and the timing for delivery of housing on site.

Councillor Jeremy Findlay spoke against the application. He said that the development would not enhance or preserve the area and was therefore contrary to planning policy. He also questioned the absence of any reference to the 700 signature petition which had been submitted by objectors. He suggested that the additional population would place an unacceptable strain on local GP resources which were already at capacity and that

additional traffic would make the surrounding routes dangerous for children and other pedestrians. He also expressed concern about the loss of prime agricultural land.

*Sederunt: Councillor Findlay left the Chamber.*

Mr Andrew Bowie, on behalf of the GOOD campaign, spoke against the application. He said that in his street (Muirfield Grove) the ratio of children to houses is 1:1. He questioned the Council's formula which suggested that the average ratio in the new development would be 0.35. He said that the village school would be unable to cope and the children's education would suffer. He also expressed concern over the increased traffic congestion around the school. He concluded that, in his view, this development would ruin the village.

Ms Clare Tulloch spoke against the application. She said that the development would be hugely detrimental to West Fenton, and this view was shared by many residents and users of the local riding stables. She questioned the findings of the traffic survey, stating that bottlenecks on the A198 would push traffic onto local routes where narrow roads, blind corners and increased traffic volume would pose a significant risk to pedestrians, cyclists and riders. She added that this would also compromise the safe routes to school for local children and she believed that a serious accident would be inevitable.

Mr Andy Crummey, on behalf of Gullane Parent Carer Council, spoke against the application. He referred to the results of a survey carried out among the parent body of Gullane Primary School which had highlighted a number of concerns including the inadequate formula to generate child numbers and the detrimental impact on road safety around the school. He said that parents were also concerned about the cumulative impact on school services, which were already at capacity, and that the southern boundary of the school should be protected.

Mr Martin White addressed the Committee on behalf of Gullane Area Community Council (GACC). He said that the GACC were deeply concerned that the application had been put forward prematurely, before any independent scrutiny of the proposed LDP and with a mass of unresolved representations. There was also concern that CALA would backslide on the Fire School site if Saltcoats Field was approved, that the site did not comply with the Strategic Development Plan and was out of proportion with the village. He outlined concerns over public transport, increased traffic volume and damage to the conservation area and urged Members to refuse the application.

Councillor McMillan asked if assurances could be given that the issues raised by objectors regarding traffic volume had been addressed. Grant Talac, Transportation Planning Officer, advised that the assessments provided by the applicant had been reviewed and were in line with modelling undertaken as part of the LDP process.

Local Member Councillor Goodfellow referred to recent housing developments in the village and the closure of the local post office and the impending closure of the bank. He argued that this application was premature and would render the Reporter process pointless. He urged his colleagues to reject the application or, should they approve it, to do so subject to amended conditions relating to a 20mph speed limit and removal of the reference to commuted sums for affordable housing.

Councillor Currie observed that one of the reasons the proposed LDP had been submitted to the reporter was the large number of objections received. He was concerned that should the Committee approve this application these objections would never be properly considered. He said that the Reporter should be given the opportunity to review the objections and come to a view on the LDP. For this reason he would not be supporting the report recommendation.

The Convener commented that the Council had already lost appeals relating to several applications for sites on which they had not supported development. He reminded the Committee that the Council had previously agreed that this and other sites should come forward and it was not appropriate for the Members to question this decision.

Councillor Innes said that this was a difficult decision and that all representations, whether regarding the LDP or this application should be taken into account. However, the Council was required to provide 10,050 homes and to ensure a 5 year supply of available land. He said he accepted the advice of officers regarding the impacts on pupil numbers, traffic volume and road safety. He added that this application was supported by the Council's Interim Guidance on Housing Land. On balance, despite the significant objections, he would be supporting the application.

Councillor McMillan commended the report and said he had listened closely to the objections put forward. He echoed Councillor Innes' comments regarding the experience of officers and said he was confident that work would be undertaken to ensure that the site and surrounding routes were safe for all road users and pedestrians. He believed that the application offered the opportunity to create much needed homes and increase economic development and he would be supporting the report recommendation.

The Convener brought the discussion to a close. He said that it had been a difficult decision selecting sites for the LDP and that the Council had a duty to identify enough land to build 10,050 houses over 10 years. He had confidence in the advice of officers and he would be supporting the recommendation to grant planning permission as set out in the report.

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

For: 5  
Against: 3  
Abstentions: 2

### **Decision**

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

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.

*Sederunt: Councillor Findlay returned to the Chamber*

## **2. PLANNING APPLICATION NO. 16/00587/PM: ERECTION OF 41 HOUSES, 8 FLATS AND ASSOCIATED WORKS, FENTON GAIT EAST, GULLANE**

A report was submitted in relation to Planning Application No. 16/00587/PM. Mr Irving presented the report, summarising the key points of the application. He stated that no objections had been raised by NHS Lothian or by the Education Department subject to the appropriate developer's contributions. The report recommendation was to grant consent for the application.

In response to questions from Councillor Goodfellow, Mr Irving confirmed that both footpath and cycle path links were included in the proposals.

Mr Thomas of APT Planning & Development, agent for the applicant, said that meetings held with those affected by the development had been helpful and had resulted in revisions to the layout and height of properties on the boundary. The site would provide 12 affordable homes which would be situated for best access to services on Gullane Main Street and public transport links. The 30 mph speed limit would be extended to the east of the site with additional crossings provided. Mr Thomas concluded that the site would complement the eastern approach to the village and the development at the former Fire School.

Responding to questions from Members, Mr Thomas clarified the reasons for the location of the affordable homes, issues regarding a septic tank on a neighbouring property and the possibility of a 40 mph buffer zone.

Mr Talac advised that a 40 mph buffer zone was possible but needed to be enforceable. He agreed to consider and take forward, if appropriate.

Ms Dorothy Arthur spoke against the application. She expressed concern about the proposed new entrance to the site which was directly opposite her property. Speeding traffic already made turning right difficult and CALA had ruled out her suggestion of a roundabout. She stated that Gullane Waste Water Treatment Works was already at capacity and she questioned the absence of a Drainage Impact Assessment when the site was already prone to flooding. She noted that the majority of the homes would have 5 bedrooms and be too expensive for 1<sup>st</sup> time buyers. She urged Members to consider the views of objectors.

Mr John Dillon, on behalf of Muirfield Steading Residents Association spoke against the application. He said residents were deeply concerned about the proposed public access through their land from Fenton Gait East field and wanted to ensure that their privacy was protected. He also drew Members' attention to the large number of animals and birds which could be found in and around the field since it had lain fallow over the past 7 years.

Responding to questions from Members, Mr Dillon advised that the pathways belonged to the Steading and were maintained by the residents. The roads were maintained by the Council. He had spoken to the Scottish Wildlife Trust and the Countryside Warden but they could not act as the field was not part of a Special Protection Area.



Tom Drysdale addressed the Committee on behalf of Gullane Area Community Council. He said that there was massive concern within the local community and he strongly recommended that Members did not determine the application until the Reporter had decided whether or not to include the site in the LDP. To do otherwise could be prejudicial. He said that this and the other sites were not sustainable in terms of impact on local amenities, transport and GP services. He added that the impact on the Greywalls Designed Landscape to the north and on the local biodiversity would be detrimental.

At the request of the Convener, Mr McFarlane provided clarification on two matters. He confirmed that any planning permission could not override the legal rights of any individual. He also advised that Scottish Water were responsible for appropriate waste water treatment measures to enable the development, should planning permission be granted. This would be a matter for agreement between Scottish Water and the developer.

Local Member Councillor Goodfellow stated that he hoped that a 20 mph speed limit would form part of the development.

Councillor Currie said that Mr Dillon's comments regarding biodiversity were one of the reasons why people value the area so highly. Referring to traffic volume and speed he said he had major concerns regarding the impact on the local roads network. He also reiterated his concerns regarding the timing of the application and that to grant consent would be akin to adopting the LDP by stealth. For these reasons, he would not be supporting this application.

Councillor O'Donnell drew Councillor Currie's attention to the legal advice contained within the report. She challenged his remarks regarding adoption of the LDP which she said was an unfair representation of the process.

Councillor Innes acknowledged that this was a difficult decision and that the Members had a duty to consider all objections. However in relation to concerns about biodiversity he pointed out that the farmer had the right to replant his field at any time and it would have a significant impact on the wildlife. In his view, there were no good planning reasons for refusal and he would be supporting the application.

The Convener brought the discussion to a close. He said that there was an obligation on the Council to find land to deliver new housing and this site was part of the proposed LDP. He would be supporting the recommendation to grant planning permission as set out in the report.

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

For: 5

Against: 2

Abstentions: 3

### **Decision**

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

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.

**3. PLANNING APPLICATION NO. 17/00107/P: ERECTION OF BUILDING FOR RESTAURANT (CLASS 3) USE WITH COVERED DECKED AREA AND ASSOCIATED WORKS, SITE AT THE GREEN, WEST BAY BEACHFRONT, NORTH BERWICK**

A report was submitted in relation to Planning Application No. 17/00107/P. Emma Taylor, Planner presented the report, summarising the key points of the application. She indicated that following the site visit it had become clear that the container would be placed on a plinth which would increase the overall height of the structure. She outlined the nature of the objections received and advised Members that the proposed decision set out in the report was for refusal of the application.

In response to questions from Members Ms Taylor provided further information on the requirements for parking and advised that issues relating to electricity, sewage and waste removal would be addressed by the applicant.

Stirling Stewart, applicant, addressed the Committee. He said that the proposed site was not used and therefore it would pose no loss of amenity to the public, rather it would add to the amenity of the area. He outlined the proposed arrangements for delivery and installation of the container and confirmed that if approval was granted a full survey would be carried out. He stated that the business would provide employment opportunities and would support North Berwick in remaining competitive as a tourism destination. It would also support the Council's economic development strategy and tourism action plan.

Mr Stewart responded to a number of questions from Members regarding toilet facilities, the impact on the footpath which crossed the proposed site, noise levels and when the business was expected to open.

The issue of ownership of the foreshore was raised by several of the Members. Ms Taylor and Mr McFarlane advised that the Council managed the land but, despite repeated attempts, they had been unable to confirm who owned the land. There was a suggestion that it may be owned by the North Berwick Common Good Fund. If this were the case, Members expressed concern that those who sat on the Planning Committee and the North Berwick Common Good Committee may have a potential conflict of interest if first they were involved in determining a planning application and later were asked to consider a request from the applicant to the Common Good Fund. Mr McFarlane indicated that efforts were ongoing to establish land ownership and it was a matter for individual Members to decide on conflict of interest. He added that this was not a reason for non-determination of the application.

In light of this issue, Councillor Findlay declared that, as a member of the North Berwick Common Good Committee, he would not take part in the vote on this application.

Ms Carolyn Finlayson spoke against the application. She said that while she had supported Mr Stewart's other businesses (the Lobster Shack and the Rocketeer), this proposed structure would block part of the view over West Bay beachfront. She indicated that, at the recent charrette, Beach Road was identified as a significant hazard and any increase in traffic would only exacerbate matters and increase the potential danger to pedestrians. She also questioned whether the level of custom would justify the proposed opening times.

Mr John Hunt spoke against the application. He said that he used the area regularly and many people used it at weekends to sit and enjoy the view. At the recent regatta it was also

used for spectators and dinghies. He indicated that the strength of feeling locally was reflected in the sense of shock and outrage that an area of valued and longstanding green space should be threatened. He said there were 28 restaurants and cafes in North Berwick and it was questionable whether more were required.

Tommy Todd addressed the Committee on behalf of North Berwick Community Council. He stated that while there would be economic benefit to the applicant there would also be significant damage to the amenity of the area. He challenged the applicant's claims about bringing employment opportunities and additional visitors to the town, particularly if it had to close in bad weather. He said that the proposals would be seriously detrimental to the conservation area and contrary to planning policy. He also referred to concerns regarding parking, access, littering and damage to the site caused by the container.

Local Member Councillor Findlay said that his only comment would be that Members take account of the high number of objections to this application.

Local Member Councillor Goodfellow observed that the supporters of this application were vastly outweighed by the objectors and his main concern was loss of visual amenity.

Councillor McMillan called in the application. He believed it to be an innovative and modern proposal and he accepted that this could sometimes cause concern. He said that it would increase sustainable economic development and help to attract more people to the area. He respected the views of the speakers but he considered that proposals had been put forward to address these concerns. He would be supporting the application.

Councillor Currie said he thought that this was the right application but in the wrong place. He accepted that any business was a huge addition but this proposal would result in a huge loss of amenity and the loss of an established pathway. He observed that this was about degree and mitigation and he considered the proposals to be detrimental to the local area and the community. He would be supporting the report recommendation.

Councillor Small agreed with Councillor Currie. He was also concerned that a precedent may be set if the application was approved and he agreed with the concerns around loss of amenity. He added that it was disappointing that the issue of land ownership had not been clarified. Mr McFarlane confirmed that the matter of ownership was one for the applicant to resolve.

Councillor Innes acknowledged that Mr Stewart's previous businesses had been successful and had brought significant benefits to North Berwick. However, he found himself agreeing with other Members that this was the right application but in the wrong place. He would be supporting the report recommendation.

Councillor McLeod commented that this type of business was likely to be successful and that Mr Stewart had a proven track record in this area. He would not be supporting the report recommendation.

Councillor McMillan referred to negative comments made by members of the public earlier in the meeting. He commended officers for their fair and balanced reporting and his colleagues for their thoughtful and reasoned deliberation of the issues surrounding each application.

The Convener brought the discussion to a close. He acknowledged that the proposals could offer investment in East Lothian and opportunities for employment. However, there had also been significant concerns expressed by the local community. He would be supporting the recommendation as set out in the report.

The Convener moved to the vote on the report recommendation:

For: 7  
Against: 3  
Abstentions: 1

### **Decision**

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

- 1 The application site form 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.
- 4. PLANNING APPLICATION NO. 17/00180/P: ERECTION OF CLOCK TOTEM STRUCTURE (RETROSPECTIVE) AT LAND ADJACENT TO NORTH BERWICK GOLF CLUBHOUSE, BEACH ROAD, NORTH BERWICK.**

A report was submitted in relation to Planning Application No. 16/00633/AMM. Ciaran Kiely, Planner, presented the report and recommendations.

The Applicant, Chris Spencer, from North Berwick Golf Club, spoke in favour of the application. He stated that it had always been a desire of the Club to have a good quality clock situated at the first tee. The clock had been donated by overseas members and there



had been no indication, before its arrival, of the size of said clock. Although the opinion of members of the Golf Club was divided regarding the clock, the Golf Club Committee were of the view that it created an opportunity for a focal point at the first tee. Further improvements to the site of the clock were also planned.

Mr Spencer responded to questions from Members. He advised that, regarding the lack of application before the erection of the clock, there had been no indication of its height before it had arrived. In terms of the further improvements, Mr McFarlane recommended that proposals for additional works should be brought to the Planning Department in the first instance. With reference to advertising on the clock, Mr Spencer confirmed that the Golf Club received no income from the advertising, and it could be removed if required.

Tommy Todd, spoke against the application on behalf of North Berwick Community Council. He reported that the test applied to Planning Applications by the Community Council was 'would this application preserve or enhance the local area.' The view of the Community Council was that it would visually and environmentally damage the area. The Community Council felt they should make every effort to protect North Berwick's iconic views. He requested that the Committee rejected this application.

Local Member Councillor Findlay asked whether, if the Planning Application had been received before the erection of the clock, there would have been a different recommendation before the Committee today. Mr McFarlane confirmed that there was no difference in Planning terms in the way a Retrospective Application and an Application received in the usual way should be determined.

Councillor Currie noted that an error had been made, but agreed that the way to rectify this error was to apply for Retrospective Planning Permission. He stated that on balance he would be supporting the Officer's recommendations.

Councillor Bruce welcomed Members' comments on the requirement for Planning Permission and confirmed that he would be supporting the Officer Recommendations.

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

For: 11  
Against: 0  
Abstentions: 0

### **Decision**

The Committee agreed that retrospective consent should be granted subject to the following 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.

### **5. PLANNING APPLICATION NO. 17/00087/LBC: REMOVAL OF CONDITION 4 OF LISTED BUILDING CONSENT 16/00691/LBC, THE OLD MANSE, 21 SIDEGATE, HADDINGTON**

A report was submitted in relation to Planning Application No. 17/00087/LBC. Neil Miller, Planner, presented the report and recommendations. The building was Category B Listed and building consent was subject to a number of conditions. The condition that had not been granted, condition 4, was for the removal of the living room buffet recess wall. Removing the

wall would impact on the architectural character of the house, and was part of the important and original structure, which had been designed to separate servants, and allow them to pass between it and the recess. There was also original cornicing in the area. Historic Environment Scotland had recommended that the condition was not removed and accordingly the officer recommendation was to refuse the removal of the condition.

In response to questions from Members, Mr Miller and Mr McFarlane outlined other, similar applications which they had made reference to in coming to a decision on this application, and explained that other alterations that had been applied for had included the removal of non load-bearing walls without special features. The wall in question was an original feature, not a later addition.

The Agent, Derek Scott, from Derek Scott Planning, spoke in favour of the application. He stressed that the request to remove the condition had arisen from a desire to link the kitchen and living areas. The house had been built during a period when servants were kept separate from families, but the lack of this link between living spaces was curtailing the amount of time his clients were able to spend together as a family. He contested the Planning Officers view that original features would be lost, claiming that the cornicing and nibs would be unaffected. He added that the work would be fully reversible and could be reinstated at a later date.

Councillor McMillan drew the Committee's attention to the reasons for requesting that this application should be brought to the meeting, and indicated that some would take a purist, and others a pragmatic view. He noted that the owners had made significant investment into the property, that as lifestyles changed a need to amend the layout of a house could arise, and that, according to Mr Scott's presentation, the wall could be reinstated at a later date. He added that this internal work would not be visible from the street.

Councillor O'Donnell disagreed with Councillor McMillan, asserting that a link between kitchen and living space was not a requirement for family life.

Councillor Currie confirmed his support for the officer recommendations. He had been unconvinced by the argument that the wall could be reinstated, and felt that protections were placed on listed properties to ensure that those buildings survived. Whilst he acknowledged the difficulties, if a family chose to purchase a listed building they would have to accept that restrictions in place would be applied.

Councillor Findlay commented that the proposed opening would not affect the features of the buffet wall. Regardless of the age of the property, he asserted that it would need to fit in with modern living. Given that there were no structural changes proposed, he noted his intention to vote against officer recommendations.

Mr McFarlane highlighted that Councillor Findlay's remarks were based on the assertions of the Agent, not the Planning report.

Councillor Innes advised that East Lothian Planning Committee had a long history of protecting historic buildings, but that the internal structures had not always been protected. He was unconvinced that removing the condition would constitute a dramatic change to the property. He confirmed that he would vote to allow the removal of the condition.

Councillor Small maintained that, given it would not represent a permanent change to the building, and assuming that the quality of materials used would be commensurate with the rest of the property, was minded to support the applicant and grant the removal of the condition.

The Convener remarked that it was always difficult to make decisions in cases such as this application, and that from time to time it would be necessary to make changes to buildings so that they could remain accessible. If the only way to ensure that the building stayed in modern use was with the alteration, and said alteration would not interfere with the external structure, it would not be significant enough, in his view, to merit refusing the removal of the condition.

The Convener then moved to the vote on the report recommendation to refuse the removal of condition 4 of Listed Building Consent 16/00087/LBC:

For: 2  
Against: 9  
Abstentions: 0

**Decision**

The Committee agreed that the removal of condition 4 of Listed Building Consent should be granted.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee