

**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 15 August 2017

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

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

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Application No. **16/00710/PM**

Proposal                      Erection of 24 houses and associated works

Location                     **Land To The North Of Foreshot Terrace**  
**Dirleton**  
**East Lothian**  
**EH39 5DR**

Applicant                    Muir Homes Limited

Per                            TMS Planning Services Ltd

RECOMMENDATION         Application Refused

#### PLANNING ASSESSMENT

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

As a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 16/00008/PAN) and thus of community consultation prior to this application for planning permission in principle being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that a total of 53 people attended the pre-application public exhibition, which was held at the Open Arms Hotel, Dirleton. Attendees made a number of queries and comments regarding the proposals. The development for which planning permission is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

This application relates to some 2.55 hectares of land in the East Lothian countryside

which forms the southernmost part of a larger area of agricultural land on the west side of Ware Road, on the north-eastern edge of Dirleton. The site is within Dirleton Conservation Area.

The site is bounded to the north by the remainder of the larger area of agricultural land of which the site is a part, to the east partly by Ware Road and partly by 3 residential properties, to the south by a tree belt which is the subject of a Tree Preservation Order with the B1345 public road of Foreshot Terrace beyond and to the west by an access road with residential properties beyond.

In April 2014 planning permission in principle (ref: 14/00324/PP) was sought for a residential development of part of the application site. An indicative site plan submitted with that application shows how 34 residential units might have been accommodated on the application site, how 2 areas of open space might have been formed on the southern part of the site and that access to the site might have been taken from Ware Road. On 22 August 2014 planning permission in principle 14/00324/PP was refused for the following two reasons:

1. The new build residential development proposed in principle in this application is contrary to the Council's Housing Land Supply: Interim Planning Guidance on the following considerations:

(i) it is of a scale inappropriate to the village of Dirleton;

(ii) it would not preserve but would be harmful to the character and appearance of Dirleton Conservation Area and conflicts with Development Plan policies relating to development within conservation areas;

(iii) there is a lack of existing facilities and services, therefore the need to travel would not be minimised;

(iv) given the lack of existing facilities or services within Dirleton the proposed housing would not make a demonstrable and necessary contribution to sustaining or improving educational, social or community facility provision within the local area;

(v) the north boundary of the application site is not contained within a robust, defensible boundary and the residential development of the application site would set a real precedent for subsequent future expansion to the north, the principle of which should be considered through the Local Development Plan process.

2. The proposed development would result in a highly visible and obtrusive extension of urban development into an area of agricultural land which would not integrate into its surroundings and would simply extend the northern edge of the village into the undeveloped surrounding countryside in a conspicuous and incongruous manner which would not preserve but would be harmful to the character and appearance of the Conservation Area, contrary to Policy ENV4 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: June 2014.

In November 2014 planning permission in principle (ref: 14/00875/PP) was again sought for a residential development of part of the application site. An indicative site plan submitted with that application shows how 21 residential units might have been accommodated on the application site and that access to the site might have been taken from Ware Road. On 23 January 2015 planning permission in principle 14/00875/PP was refused for the following two reasons:

1. The new build residential development proposed in principle in this application would result in a highly visible and obtrusive extension of urban development into an area of agricultural land which would not integrate into its surroundings and would simply extend the northern edge of the village into the undeveloped surrounding countryside in a conspicuous and incongruous manner which would not preserve but would be harmful to the character and appearance of the Conservation Area, contrary to Policy ENV4 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: June 2014.

2. The new build residential development proposed in principle in this application is contrary to part 5 of the Council's Housing Land Supply: Interim Planning Guidance on the following considerations:

(i) as it would not preserve but would be harmful to the character and appearance of Dirleton Conservation Area it conflicts with Development Plan policies relating to development within conservation areas;

(ii) it is not an appropriate extension of the settlement of Dirleton;

(iii) there is a lack of existing facilities and services, therefore the need to travel would not be minimised; and

(iv) the northern boundary of the application site has no clear existing natural/physical boundary which could be strengthened by the proposal and is not contained within a robust, defensible boundary. As such the residential development of the application site would set a real precedent for subsequent future expansion to the north, the principle of which should be considered through the Local Development Plan process.

Planning permission is now sought through this application for the erection on the application site of 24 houses and associated works.

The development site layout plan shows how the proposed 24 houses would be accommodated on the site along with associated access roads, parking areas, landscaping and open space. The houses would comprise of a mix of detached and terraced houses. The houses would be a mix of single storey, part two-storey and part single storey, and two storeys high.

Of the 24 houses, 18 would be detached and 6 terraced. In terms of size, of the proposed 24 houses 3 would contain 2 bedrooms, 8 would contain 3 bedrooms, 8 would contain 4 bedrooms and 5 would contain 5 bedrooms.

Of the 24 houses there would be a total of 18 private houses for sale of 4 different house types, and the provision of 6 affordable housing units which would be a mix of 2 different house types.

Vehicular, pedestrian and cycle access to the site would be taken by way of a new access junction with Ware Road at the northeast corner of the site. Further to this a pedestrian/cycle access link would be formed connecting the site to Foreshot Terrace to the south.

A central area of landscaped open space would be formed on the site. It is also shown how the tree belt which is the subject of a Tree Preservation Order along the southern part of the site would be protected and enhanced.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the

category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 13 August 2014 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed housing development to be the subject of an EIA.

Since the registration of the application non-material amendments have been made to the application resulting in the submission of revised site layout plans and landscaping plans to show a slightly revised site layout for the proposed development and enhanced landscaping of the site.

Through separate application ref: 16/00711/P planning permission is sought for the formation of a SUDS pond to serve the housing development proposed in this application. It is indicated on the drawings for separate application ref: 16/00711/P that a woodland strip could be planted on the north side of the site the subject of this application to provide for a robust defensible landscape boundary for it, although the planting and formation of such woodland does not require planning permission. Application 16/00711/P is presented elsewhere on this Committee Agenda.

Through separate application (ref: 16/00521/PM) planning permission is sought for erection of 32 houses, 4 flats and associated works on Land At Castlemains Farm, Off Station Road, Dirleton. That application is currently pending consideration and therefore no decision has yet been made on it, however written confirmation has been received asking for it to be withdrawn. The site of application 16/00521/PM is identified as housing site NK11 in the Proposed Local Development Plan. As such it is a part of the sites which represent the settled view of the Council of sites which have potential for residential development. Proposal NK11 allocates that separate site for a residential development of circa 30 homes.

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

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

Policies 1B (The Spatial Strategy: Development Principles), 5 (Housing Land) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP1 (Landscape and Streetscape Character), DP2 (Design), DP4 (Design Statements), DP13 (Biodiversity and Development Sites), DP14 (Trees on or Adjacent to Development Sites), DP17 (Art Works-Percent for Art), DP20 (Pedestrians and Cyclists), DP22 (Private Parking), DP24 (Home Zones), ENV4 (Development Within Conservation Areas), ENV3 (Listed Buildings), INF3 (Infrastructure and Facilities Provision), H1 (Housing Quality and Design), H4 (Affordable Housing), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

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

Also material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: June 2014.

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

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

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

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

A total of 73 written representations have been received to the application. Of these 65 object to the proposed development, 6 are in support of it and 2 make comment on it. Many of the written objections take the form of pro-forma letters.

The main grounds of objection can be summarised as follows:

- \* the site is covered by the Countryside around Towns policy of the Proposed Local Development Plan and development on the site would be contrary to that and also set a precedent for future development on such designated areas;
- \* the site is not designated for housing in the Proposed Local Development Plan;
- \* the proposed development is contrary to the Dirleton Conservation Area Character Statement of the current Local Plan;
- \* the proposed development is of a size, scale and character out of keeping with the village of Dirleton and would detract from the visual and historic approach into the village from the north;
- \* the proposed development would not preserve or enhance but would be harmful to the Conservation Area;
- \* the design and layout of the proposed development is out of keeping with the Conservation Area and would not integrate into its surroundings;
- \* the character of the village would change, which would be compounded with a development of land at Castlemains in Dirleton;
- \* land at Castlemains is the preferred site for development in the Proposed Local Development Plan;
- \* the amenity of neighbouring residential properties would be adversely affected;
- \* the proposed development would lead to traffic problems and would result in a road safety hazard;
- \* there is a lack of local services and facilities to cater for the proposed development and therefore the need to drive out of the village to access services will increase;
- \* the proposed development would take the primary school to capacity;
- \* the rail station car parks at Drem and North Berwick are at capacity;
- \* new trees planted would lead to a loss of light; and
- \* the application site is a feeding ground for pink footed geese and other wildlife and thus the application should be subject to Environmental Impact Assessment.

The main grounds of support for the application can be summarised as follows:

- \* a small housing development can be assimilated into the village;
- \* the design of the proposed development is sympathetic to the Conservation Area and the character of the village; and
- \* it is a better site for development than land at Castlemains.

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

- \* the site has not been designated for housing in the Proposed Local Development Plan;
- \* in terms of the Council's Housing Land Supply: Interim Planning Guidance preference should be given to the site at Castlemains Place, Dirleton designated in the Proposed LDP as suitable for housing; the development of both the Castlemains Place site and the application site for housing would be unsustainable in view of the limited infrastructure in Dirleton including a lack of places at Dirleton Primary School;
- \* the application site forms part of an area along the whole northern edge of Dirleton which is subject to the Countryside Around Towns Policy of the Proposed LDP;
- \* the proposals conflict with the Dirleton Conservation Area Statement in that they would interrupt views of Dirleton and Dirleton Castle on the approaches to the village from the east and northeast and with the setting of Oatfield House; and
- \* there is evidence that the site is regularly used for feeding by pink footed geese overwintering at Aberlady Bay nature reserve, which forms part of the Firth of Forth Special Protection Area (SPA) and thus is afforded a high level of protection under the European Habitats Directive. There is also evidence the fields are used by curlews and pheasants. Therefore an environmental impact assessment should be submitted with the application.

As stated above previously in this report it is the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed housing development to be the subject of an Environmental Impact Assessment.

The written objections and Gullane Area Community Council make reference to Policy DC8 of the Proposed East Lothian Local Development Plan, where Countryside Around Town designations would apply. Although the Proposed East Lothian Local Development Plan has been submitted for examination to Scottish Ministers, Policy DC8 does not at this time form part of the Development Plan and therefore it does not outweigh the provisions of Policy DC1 of the adopted East Lothian Local Plan 2008 and SESplan Policy 7.

In respect of assessment of part of the consideration of the detail of the application, one of the principal objectives of the Council's approved Design Standards for New Housing Areas is to reduce the visual dominance of the car in the streetscape of new housing developments. The applicant has addressed this principle throughout the development by use of in-curtilage parking to the side of houses, or the use of courtyard parking. This would serve to reduce the visual dominance of the car in these streetscapes. In this and in the design principles of the street layout the proposals generally respond to the requirements of the Design Standards.

The range of house types proposed would give a variation of architectural form to the development, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development. The architecture of the proposed houses is of a traditional pitched roof form. It should be ensured that the use of wet dash render is the predominant wall finish as this would respect the typical finish of nearby houses in Dirleton. However, some use of a contrasting wall finish (i.e. reconstituted stone) would be acceptable providing it is limited to a distinctively complete feature of the houses and respectful of their design integrity. A condition could be imposed on a grant of planning permission for the proposed development to address these matters of wall finishes.

The proposed housing development would in itself provide an acceptable residential

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

The proposed new houses would be so sited, oriented and screened such as not to harm the privacy and amenity of neighbouring or nearby residential properties through overlooking or overshadowing.

The site is capable of accommodating all of the proposed development including vehicular and pedestrian access and amenity space without being an overdevelopment of it. The proposed development would be of a pattern and density not inconsistent with some of the existing patterns and densities of the housing within Dirleton.

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

Regarding formal play provision, the Principal Amenity Officer advises that the existing play area provision in Dirleton is sufficient to provide for the proposed development and thus there is no requirement to provide a play area within the proposed development or to enhance the existing play facilities. On this consideration the proposed development is not contrary to Policy C2 of the adopted East Lothian Local Plan 2008.

In terms of generic wildlife interest, the Council's Biodiversity Officer raises no objection to the application, satisfied the proposal would not have a harmful impact on existing wildlife. The application site forms the southernmost part of a larger area of agricultural land on the west side of Ware Road. The Biodiversity Officer confirms that geese do feed in the large area of agricultural land on the west side of Ware Road but however, the geese mainly feed in the middle of that land and would not generally cluster close to Dirleton itself. It is his advice that the application site is sufficiently small relative to the size of the larger area of agricultural land to which it forms a part that a development of it for residential use would not have an impact on the use of the field by geese. The Biodiversity Officer is therefore satisfied that a proposed housing development on the application site would not have any adverse biodiversity impacts, consistent with Policy DP13 of the adopted East Lothian Local Plan 2008.

In respect of landscape matters the applicant has taken into consideration comments of the Council's Landscape Projects Officer in the submission of revised drawings to incorporate enhanced landscape planting, tree protection measures, planting within the site itself and the submission of a landscape management report. The Landscape Projects Officer therefore advises she is supportive of the proposed landscaping of the site subject to trees being retained on site being protected during construction works. The provision of the proposed landscaping of the site and tree protection measures can be made conditions of a grant of planning permission. On this consideration the proposed development is consistent with Policy DP14 of the adopted east Lothian Local Plan 2008.

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

The Council's Waste Services Manager raises no objection to the proposed development.



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

The listed building of Cedar Grove (Category C listed) partially bounds the site to the east. The site is well contained to the rear of that listed building and would not interrupt views of it from either Foreshot Terrace or Ware Road. Due to this the proposed development would not have a harmfully prominent or imposing visual relationship with the listed building, would not harm the setting of it and thus would allow it to remain the focus of its setting. On this consideration the proposed development of the site for residential use is not contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy ENV3 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: June 2014.

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

The Council's Transport Appraisal (TA) provides the evidence base which has informed the Council's draft Developer Contributions Framework (DCF) and has been produced in conjunction with the Local Development Plan TA so that Road Services can assess the cumulative impacts of both Local Development Plan allocations and applications for residential development not allocated in the LDP on the Transport Network. The TA has identified a number of hot spots on the network which require interventions to mitigate the impact of both Local Development Plan allocations and applications for residential development not allocated in the LDP and sets out the appropriate contribution levels for such interventions.

For this site the requirement for developer contributions towards each intervention as identified through the above process is as follows (the works are detailed in the Transport Appraisal):

- \* improvements to Old Craighall junction - £552;
- \* improvements to Salters Road Interchange and Bankton Interchange – £1,067.76 and £4,873.44;
- \* improvements to the rail network - £8,545.68;
- \* Musselburgh town centre improvements - £405.36;
- \* Tranent town centre improvements – £699.84.

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £16,144.08.

In respect of the matters above, Transport Scotland advises that they have concern in regard to the development impact on the junction of the A1 trunk road and the A720 trunk road (i.e. the Old Craighall Junction south of Musselburgh, at the western end of East Lothian). In this regard they have sought a contribution from the developer towards

mitigation of this perceived impact. The applicant, Muir Homes Ltd, is willing to pay Transport Scotland a sum of £552 towards the upgrade of the Old Craighall junction. They have provided the Council with a formal legal undertaking that they would make this payment to Transport Scotland in respect of a resolution to grant planning permission for the proposed development and prior to the completion of a section 75 Agreement in respect of the application. Transport Scotland is content with this approach and, on this basis, raise no objection to the impact of the development on the Old Craighall junction.

Network Rail advises that the proposal will contribute to a cumulative impact on North Berwick Station and on local rail services within East Lothian and that mitigation of the impact of the development is required in accordance with the evidence base informing East Lothian Council's Draft Developer Contributions Framework. Network Rail's Scotland Route Study 2016 and its Market Study of local and long distance journeys identify for the routes between North Berwick, Drem and Edinburgh Waverley that ScotRail services will exceed 100 per cent of seating capacity (assumed to be six carriage trains) in the peak hour by the time they reach Edinburgh Waverley. The provision of two new tracks to form passing loops via new flat junctions between Prestonpans and Drem stations would allow local passenger and freight services to utilise new track between Prestonpans and Drem in order that long distance non-stopping services can overtake slower trains on this section of the East Coast Main Line, which will substantially increase timetable flexibility and contribute towards additional services. Contributions secured from developers in this area should be channelled to this project to help secure additional local rail services and capacity for the East Lothian Council area. The indicative costs of this project will be between £125m - £300m. In accordance with this and the evidence base of East Lothian Council's Draft Developer Contributions Framework Network Rail therefore seeks a developer contribution of £8,545.68. Again the applicant has provided the Council with a formal legal undertaking that they will make this payment to Network Rail following a resolution to grant planning permission for the proposed development and prior to the Council signing a section 75 Agreement in respect of the application. Network Rail are content with this approach and, on this basis, raise no objection to the impact of the development on the rail network.

With allowance for the amount covered by the formal legal undertakings for payment to Transport Scotland and to Network Rail, the developer contributions towards the other required transportation interventions of £14,092.80 can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards these transport interventions, which the applicant has confirmed in writing that they are willing to make, the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made.

The Council's Road Services have considered the applicant's Transport Assessment (statement) submitted with the application and raise no objection to the proposed development, being satisfied that it would be accessed safely and would not lead to a road or pedestrian safety hazard. They advise that the proposed means of access and amount and location of parking within the site are generally acceptable and that traffic likely to be generated by the proposed development could be satisfactorily accommodated on the local road network without harm to road or pedestrian safety.

Roads Services additionally recommend that:

- \* Ware Road be widened to 5.5 metres from its junction with the B1345 public road of Foreshot Terrace to the proposed site access junction with Ware Road;
- \* junction improvements be carried out at the junction of Ware Road with the B1345 public road of Foreshot Terrace as shown on the application drawings;
- \* a 30 miles per hour (mph) speed limit be brought into effect on Ware Road from the north side of the proposed site access junction and continuing southwards to the junction of Ware Road with the B1345 public road of Foreshot Terrace, with street lighting provided over the full length of the new 30 miles per hour (mph) speed limit;
- \* a visibility splay of 4.5m by 70m be provided and maintained at the proposed site access junction with Ware Road so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface;
- \* a dropped kerb pedestrian crossing point be formed on the B1345 public road of Foreshot Terrace in a position to be agreed to allow for a safe pedestrian crossing from the site's pedestrian access to Foreshot Terrace;
- \* a continuous 2 metre wide footway be provided on the east side of Ware Road from the proposed site access junction to the junction of Ware Road with the B1345 public road of Foreshot Terrace. A dropped kerb tactile crossing is required on the south side of the site access junction with Ware Road;
- \* 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;
- \* a Green Travel Plan (GTP) be submitted and approved in consultation with Road Services. It should have particular regard to provision for walking, cycling and public transport access to and within the site, and will identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan;
- \* a Construction Method Statement to minimise the impact of construction activity on the public road network be submitted to and approved by the Planning Authority prior to the commencement of development. It should recommend mitigation measures to control construction traffic and include hours of construction work; and
- \* wheel washing facilities be provided and maintained in working order during the period of operation of the site.

With the imposition of conditions to cover these recommendations of Roads Services, the proposed development does not conflict with Policies DP20, T1 and T2 of the adopted East Lothian Local Plan 2008.

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

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

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

The Council's Economic Development & Strategic Investment Manager advises that in accordance with the Council's Affordable Housing Policy, 25% of the proposed 24 residential units require to be affordable housing units. The affordable housing component of the proposed housing development is 6 units. The Economic Development & Strategic Investment Manager advises that the mix and location of affordable units to be provided on the site is acceptable. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant is willing to do, the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

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

He advises that he has considered the impact of the proposed 24 houses cumulatively with sites proposed to be allocated for residential development in the Proposed Local Development Plan in Dirleton Primary School's catchment area. He notes that there is a separate site under consideration as housing site NK11 of the Proposed Local Development Plan at Castlemains in Dirleton, which the Council recognises a potential for residential development of circa 30 homes.

The Depute Chief Executive, Resources and People Services advises that Dirleton Primary School has 4 classrooms and a 100 pupil capacity. He further advises that there is no potential to increase the capacity of the school to provide a fifth classroom due to the constrained school site and therefore any new pupil intake would have to be accommodated within the existing school footprint.

He advises that Dirleton Primary School does have sufficient capacity to accommodate the children that could arise as a result of a residential development of the application site. However, this would result in the school being at capacity with no potential to increase that capacity of the school to provide a fifth classroom due to the constrained school site. The Depute Chief Executive, Resources and People Services therefore states that this would mean that the children that could arise as a result of a residential development of housing site NK11 of the Proposed Local Development Plan at Castlemains in Dirleton could not be accommodated in the primary school due to insufficient capacity.

Therefore given that a residential development of the application site would result in there being no capacity for children arising as a direct result of a residential development of housing site NK11 of the Proposed Local Development Plan at Castlemains. If those children could not be accommodated at Dirleton Primary School due to insufficient capacity, this would directly prejudice the delivery of housing site NK11 of the Proposed Local Development Plan.

The Depute Chief Executive, Resources and People Services therefore objects to the application. This objection is given further consideration below in respect of the Council's

Interim Planning Guidance: Housing Land.

Notwithstanding these technical considerations, the primary material consideration in the determination of this application is whether or not the principle of the proposed housing development accords with development plan policy and other supplementary planning guidance and if not, whether there are material considerations that outweigh any conflict with the development plan and other supplementary planning guidance.

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

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

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

The same principle should be applied where a development plan is more than five years old.

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

At its Cabinet meeting of 10 December 2013, the Council agreed that at that time East Lothian had a shortfall in its effective housing land supply and in respect of this approved the Housing Land Supply: Interim Planning Guidance against which planning applications for housing on land not allocated for housing development would be assessed. This position, and the associated guidance, was updated in December 2014 and again in February 2016. This Interim Guidance reflects the principles of Policy 7 of SESplan and is a material consideration in the determination of this application for planning permission.

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

On 06 September 2016 the Council approved its Proposed Local Development Plan. It sets out a development strategy for the future of East Lothian to 2024 and beyond, as well as a detailed policy framework for guiding development. The Proposed Local Development Plan sets out the Council's settled view of where new development should and should not occur, including housing, education, economic and retail development,

new transport links, and other infrastructure. It sets out a generous housing land supply to meet the requirements of Scottish Planning Policy and SESplan. The Schedule 4 responses to comments on the plan during its period of representation were approved by Council at its meeting of 28 March 2017 and have been submitted, together with the plan, for Examination.

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

In Paragraph 34 of Scottish Planning Policy it is stated that where a plan is under review, it may be appropriate in some circumstances to consider whether granting planning permission would prejudice the emerging plan (in this case the Proposed Local Development Plan). Scottish Planning Policy goes on to state that such circumstances are only likely to apply where the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan. Prematurity will be more relevant as a consideration the closer the plan is to adoption or approval.

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

Following the Council's approval of the Proposed Local Development Plan, where an application for planning permission or planning permission in principle is for a site of that Proposed Plan, support is given for the residential or other potential of the site as relevant. This support remains subject to appraisal of the site in terms of technical considerations and any constraints, including infrastructure capacity constraints. Assessment will include consideration of developer contributions in respect of impacts, including cumulative impacts, on education, transportation, community facilities and other essential infrastructure. Consideration must also be given to the objections to the application and the relevant representations to the Proposed Local Development Plan.

The site the subject of this application is not under consideration as a housing site of the Proposed Local Development Plan and thus the Council does not recognise its potential for residential development. In not being a site of the Proposed Local Development Plan the application site is not an integral part of the group of sites which the Council's settled view recognises as having the potential to meet, cumulatively, the SPP and SESplan requirements of an effective five year housing land supply.

However, housing site NK11 at Castlemains in Dirleton is identified in the Proposed Local Development Plan, as having the potential for residential development. Proposal NK11 allocates that separate site for a residential development of circa 30 homes.

It therefore requires to be considered whether in scale and/or location the application site is appropriate for development at this time without predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan.

The land of the application site is defined by Policy DC1 of the adopted East Lothian Local Plan 2008 as being part of the countryside of East Lothian.

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

However, the countryside designation of the land of the site must be weighed against the requirement of SESplan Policy 7 that Policy DC1 be considered in the context of the housing land supply. It must also be considered in relation to the Council's previous recognition of a shortfall in the effective housing land supply in East Lothian and approval of its Housing Land Supply: Interim Planning Guidance.

In respect of Policy 7 and the Interim Guidance, the Council's approval of the Proposed Local Development Plan results in the approval of sites with the potential to provide an effective five year housing land supply.

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

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

The process of selecting and approving sites for the Proposed Local Development Plan included assessment of them through considerations which reflect the criteria of the Interim Guidance, including considerations of sustainability and effectiveness. Whilst the approved Interim Guidance need not be given significant weight in respect of sites that are integral to the strategy and sites of the Proposed LDP, its considerations of scale, location and mitigation of impacts and the related detailed criteria remain relevant.

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

In this respect the approved Interim Planning Guidance states that the weight the Council affords its terms, and the terms of other Development Plan policies, to individual planning applications will depend on the extent to which the proposed development is able to satisfy all the following material considerations:

- 1 Effectiveness;
- 2 Scale;
- 3 Timing;
- 4 Development Plan Strategy; and
- 5 Locational Considerations.

In respect of criteria 1; effectiveness, the applicants' agent states that there are no physical constraints to the development of the site and the applicant is a house builder,

Muir Homes, who is committed to developing the site meaning in these respects it can be considered to be physically and financially capable of achieving early delivery. On these specific considerations the site can be considered to be effective.

In respect of criteria 2; scale, the proposed housing development of 24 residential units would be below the Guidance threshold of 300 units. In respect of this the Guidance states that the actual number of houses permissible on any one site or within any one settlement will be assessed against the scale and character of the specific settlement.

Given that Dirleton comprises some 220 residential properties the proposed 24 houses would have to be considered a relatively modest addition to the settlement. Dirleton has a post office, a church, hall, primary school and 2 bar/restaurants/hotels with no other community facilities. However, in terms of number of houses the proposal could not in principle be considered a harmfully significant change to the scale and residential character of the village of Dirleton.

As such the scale of the development can in principle be reasonably absorbed by the settlement. In this respect it does not conflict with criteria 2.

In respect of criteria 3; timing, the applicant is a developer. They have indicated that housing completions could be delivered in 2017/18. There is no evidence to suggest that they would not be able to develop the site within this suggested timescale.

In respect of criteria 4; development plan strategy, part (iii) states that any proposed development must not prejudice the ability to provide infrastructure capacity for proposals under consideration as a housing site, or be dependent on the potential provision of infrastructure capacity associated with any emerging Local Development Plan strategy or site. As recorded above the Council's Depute Chief Executive, Resources and People Services advises that Dirleton Primary School could, as it stands, accommodate children that could arise as a result of the proposed development. However, he objects to the application on the grounds that it would thereby remove any capacity to accommodate children that would arise as a result of a residential development of housing site NK11 of the Proposed Local Development Plan, at Castlemains in Dirleton.

Therefore a grant of planning permission for this site would take up all the spare capacity of the primary school. This would directly prejudice the ability to provide infrastructure capacity, in this case necessary school capacity, for housing site NK11 of the Proposed Local Development Plan.

Therefore on this consideration the housing development of the application site is contrary to the Council's Housing Land Supply: Interim Planning Guidance.

In respect of criteria 5; locational considerations, the application site adjoins part of the northern edge of Dirleton and therefore in this respect partially satisfies a principle of criteria 5 in that it would form an extension of an existing settlement as defined in the adopted East Lothian Local Plan 2008.

As Dirleton lies outwith the East Lothian Strategic Development Area identified in SESplan the proposed development also has to be assessed against the tests as set out in part (ii) of criteria 5 as well as the provisos set out in part (i) of criteria 5.

Criteria 5(i) sets out the following provisos where development may be acceptable, specifically where;



- (a) development of the site would not undermine green belt objectives, and
- (b) the site is an appropriate extension to an existing settlement identified in the East Lothian Local Plan 2008, and its scale and nature is in keeping with the scale and character of that settlement and the local area, and
- (c) infrastructure is available or can be made available (see also criterion 4) within a timescale that allows for early house completions, and
- (d) the site's development for housing is consistent with all other relevant development plan policies.

In regard to this the proposed development meets proviso 5(i)(a) and (b) in that the site is not within the Green Belt and the scale of the proposed development is, in principle, broadly in keeping with the scale and character of Dirleton. In regard to part 5(i)(c) Dirleton Primary School, as it stands, could accommodate children that could arise as a result of the proposed development, however, this would divert infrastructure required to support the settled view of the Council in allocating site NK11 in the Proposed Local Development Plan.

Criteria 5(ii) sets out the further provisos where development may be acceptable, specifically,

- (a) the settlement is well served by public transport, and
- (b) existing facilities and services are both available and accessible within the settlement such that the need to travel is minimised, and
- (c) the extent to which the additional housing would help make a demonstrable and necessary contribution to sustaining or improving educational, social or community facility provision within the local area may also be a material consideration.

In terms of part 5(ii)(a) the site is within close proximity of the nearest bus stops with a reasonable service to Edinburgh via Gullane, Aberlady, Longniddry, Prestonpans and Musselburgh.

In terms of part 5(ii)(b) Dirleton has some facilities and services, with a part time post office, a church, hall, primary school and 2 bar/restaurants/hotels available or accessible within the settlement.

In terms of part 5(ii)(c) the additional housing could help make a contribution to sustaining educational, social and community facilities within the local area.

On these considerations the proposed development meets all of the terms of part 5(ii) of the Interim Planning Guidance.

In respect of part (iii) of criteria 5 the proposed development would not be on land allocated for another specific use.

In respect of part (iv) of criteria 5 the proposed development, given it would form a residential extension of the existing village of Dirleton, would not in principle be incompatible with adjoining or nearby existing residential uses.

Part (v) of criteria 5 states that a proposed housing use must be capable of being contained within robust, defensible boundaries and must not set a precedent for

subsequent future expansion, the principle of which would be more appropriately considered through a development plan review.

The application site is bounded on its east side partly by Ware Road and partly by 3 residential properties, on its south side by a tree belt which is the subject of a Tree Preservation Order and on its west side by an access road with residential properties beyond. These are robust and defensible boundaries which would serve to contain the proposed development along these aforementioned boundaries. To the north side of the application site is further agricultural land with no existing natural/physical boundary. However the application drawings submitted with separate application 16/00711/P show an intention to form a woodland strip immediately to the north of the application site and thus the application site is clearly capable of being contained within such a robust, defensible boundary on its north side.

The application site is within Dirleton Conservation Area which comprises not only of the village of Dirleton itself but also large areas of surrounding agricultural land on all sides of the village. This has ensured that the setting of the village has been protected from unsympathetic development, in order retain the settlement's historic association with the surrounding agricultural land. Dirleton has a unique character dominated by the castle and the village greens. Part of its character is that on the northern edge of the village there exist 'fingers' of development that extend beyond the core of the village, following the agricultural field patterns in the area. These 'fingers' are separated by agricultural land and help to reinforce the nature of the village and its relationship with its agricultural surroundings. Development of the site would erode the effect of two of the 'fingers' to either side of the application site and would consolidate an area of built form leading to the loss of agricultural context to this part of the village.

It is stated in the Dirleton Conservation Area Character Statement of the adopted East Lothian Local Plan 2008 that development that impinges on the open countryside or woodland at the approaches to the village would adversely affect the Conservation Area. The site is prominent in views from Ware Road, a popular route with visitors to Dirleton as it leads to the beach and caravan park at Yellowcraig. The proposed development would result in a highly visible and obtrusive extension of urban development into an area of agricultural land. A proposed housing development of the site would not integrate into its surroundings and would simply extend the northern edge of the village into the undeveloped surrounding countryside in a conspicuous and incongruous manner and thus would not preserve but would be harmful to the character and appearance of the Conservation Area. Although, as shown on the drawings for separate application 16/00711/P it is intended to plant a woodland belt immediately to the north of the application site, this would take many years to establish and would not mitigate against the harm the development would cause to the character and appearance of the Conservation Area.

Thus on this forgoing considerations the proposed development of the application site is contrary to Policy ENV4 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: June 2014.

In respect of this harmful impact on the character and appearance of the Conservation Area further consideration must be given to part (i)(b) and (d) of Criteria 5; locational considerations of the Housing Land Supply: Interim Planning Guidance. Respectively, these state that the site's development for housing must be an appropriate extension to the settlement and be consistent with all other relevant Development Plan policies.

As stated above, the principle of a housing development of the application site is contrary to Policy ENV4 of the adopted East Lothian Local Plan 2008. Therefore as it is not

consistent with this Development Plan policy, on this consideration also, the principle of housing development of the application site is contrary to the Council's Housing Land Supply: Interim Planning Guidance.

In conclusion there are no material considerations which outweigh the new build housing development proposed in this application being contrary to the Council's Housing Land Supply: Interim Planning Guidance, Policy ENV4 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: June 2014.

## RECOMMENDATION

It is recommended that planning permission be refused for the following reasons:

- 1 The new build residential development proposed in this application would result in a highly visible and obtrusive extension of urban development into an area of agricultural land, which would not integrate into its surroundings and would simply extend the northern edge of the village of Dirleton into the undeveloped surrounding countryside in a conspicuous and incongruous manner which would not preserve but would be harmful to the character and appearance of the Conservation Area, contrary to Policy ENV4 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: June 2014.
- 2 The new build residential development proposed in this application is contrary to part 5 of the Council's Housing Land Supply: Interim Planning Guidance on the following considerations:
  - (i) it is not an appropriate extension of the settlement of Dirleton;
  - (ii) as it would not preserve nor enhance but would be harmful to the character and appearance of Dirleton Conservation Area it conflicts with Development Plan policies relating to development within conservation areas;
  - (iii) it would directly prejudice the ability to provide infrastructure capacity, in this case necessary school capacity, for housing site NK11 of the Proposed Local Development Plan.