



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

**WEDNESDAY 28 JUNE 2017
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Bruce
Councillor S Currie
Councillor J Findlay
Councillor W Innes
Councillor S Kempson
Councillor K McLeod
Councillor J McMillan
Councillor F O'Donnell
Councillor B Small
Councillor T Trotter

Other Councillors Present:

Councillor J Henderson

Council Officials Present:

Mr D Proudfoot, Head of Development
Mr I McFarlane, Service Manager – Planning
Mr C Grilli, Service Manager – Legal and Procurement
Mr K Dingwall, Team Manager – Planning Delivery
Mr D Irving, Senior Planner
Ms L Ritchie, Senior Planner
Mr M Greenshields, Transportation Planning Officer
Mr G Talac, Transportation Planning Officer
Ms L McLean, Service Manager – Strategic Asset & Capital Plan
Mr P Forsyth, Team Manager – Assets & Regulatory
Mr S Cooper, Team Manager Communications

Clerk:

Ms A Smith

Visitors Present:

Item 2 – Robin Holder, Martin Quinn
Items 3 and 5 – Mark Evesham

Apologies:

Councillor C McGinn

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 6 JUNE 2017

The minutes of the meeting of the Planning Committee of 6 June 2017 were approved.

2. PLANNING APPLICATION NO. 15/00537/PPM: PLANNING PERMISSION IN PRINCIPLE FOR RESIDENTIAL DEVELOPMENT WITH ASSOCIATED EDUCATIONAL AND COMMUNITY FACILITIES AND OPEN SPACE, LAND LOCATED TO THE SOUTH AND EAST OF WALLYFORD AND AT DOLPHINSTONE

A report was submitted in relation to Planning Application No. 15/00537/PPM. Keith Dingwall, Team Manager, Planning Delivery presented the report. He informed Members that Strawberry Corner Garden Centre had withdrawn their objection. He drew attention to several aspects of the application. He outlined the impact of the development on the rail network, highlighting capacity and modelling work issues. He indicated that an agreement with Network Rail had not been reached. Legal advice was that a separate agreement, not a Section 75 Agreement, was required with Network Rail. If Members were inclined to go against the officer recommendation the advice would be to continue this application to allow for further discussion. Regarding prematurity, Scottish Planning Policy (SPP), paragraph 34, set out the relevant circumstances. Granting planning permission in principle at this time would pre-determine decisions on the scale and location of development and thereby undermine the planning process regarding the emerging Local Development Plan (LDP). The report recommendation was therefore for refusal.

Mr Dingwall and Iain McFarlane, Service Manager, Planning, responded to questions. Further details about continuation of the application were provided. Clarification was given in respect of primary and secondary school provision. Mr McFarlane responded to queries about other sites recommended for approval, explaining that those decisions had not been central to the Proposed LDP, the scale and location of a site had to be considered; there was a clear distinction between a small site in a dispersed location and a large site key to the compact strategy of the proposed plan. In relation to the scale of the proposal compared with the proposed plan requirement housing requirements, he indicated the figure was around 6-8%. Regarding a decision on the Proposed LDP, he advised that the Reporter had completed the first stage; the second stage was more detailed, an indicative timescale was 6-9 months. In respect of the proposed rate of house build completion and school provision he said this was a balance to be agreed between the developer, Planning and Education authorities.

Robin Holder of Holder Planning Ltd, agent for the applicant, stressed that Planning Officers supported all technical aspects of the application; the single point of contention was the interpretation of SPP regarding prematurity. He quoted from this policy as regards review of emerging LDPs and consideration of applications during this period; he refuted the reason for refusal. Other sites across the county with significant objections had been recommended for approval; this application only had 2 objections. Legal advice sought indicated that the Planning Committee could take a decision when taking prematurity into account; the balance of consideration would go towards granting planning permission. In respect of the Network Rail element he stated that if the Committee were to grant permission today a clause could be added; continuation of the application would not be beneficial.

Martin Quinn of East Lothian Developments Ltd (ELD), the applicant, stated that excellent progress had been made; work was on schedule and ELD was fully committed to delivery of this site. The proposed new secondary school on the site was vital to delivery of the compact strategy; ELD would work with the Council in this regard. There was strong support for this development from the local community. Responding to points raised he clarified that 200+ units would be revoked in relation to the location of the secondary school which was why the

number varied between 600-800 units. This was a flagship project, not just for East Lothian but for the whole of Scotland.

Councillor Currie asked why a decision on this application could not wait until the Scottish Government had given their view on the Proposed LDP. Mr Quinn reiterated that the location for the secondary school meant the loss of 200+ houses and outlined the key funding issues. He added that infrastructure and utilities were in place and it was anticipated that early delivery of the site would be possible.

Local Member Councillor McLeod expressed concern that an agreement was not in place with Network Rail. He also took account of Mr McFarlane's comments and the legal opinion regarding prematurity. He would be supporting the officer's recommendation for refusal.

Councillor McMillan stated that key issues, including the need for housing in this area and the school provision, outweighed the question of timing. He had backed the Proposed LDP in terms of economic development and he would therefore be supporting this application.

Councillor Innes noted that throughout the report positive aspects of the application had been cited. The Proposed LDP was the settled view of the Council; it was a material consideration in the determination of planning applications. Members had heard from the applicant in relation to a separate agreement with Network Rail. Regarding prematurity the only issue was where this application sat in the timeframe; there were wider issues of significant importance to the Proposed LDP and to Wallyford in terms of economic regeneration, affordable housing, provision of a new primary school and community facilities. Mr McFarlane had said that the housing element equated to 6-8%; an application of this size should not be considered of a scale which would prejudice the examination of the proposed plan. He would be supporting the application.

Councillor Currie stated that the issue was purely timing; it was a judgement call for the Committee. There was a strong recommendation from the Planning Authority for refusal. He did not generally favour continuation but if certain matters needed to be addressed then this may be appropriate. He cautioned against decisions being taken before the Reporter had given their view on the Proposed LDP. The Committee should wait until that examination had been concluded; to make a decision today on this application would be to pre-empt that. He agreed with the officer's recommendation for refusal.

Councillor O'Donnell indicated that she was not convinced by the arguments put forward in support of the officer's recommendation for refusal. The Proposed LDP was the settled will of the Council. There were uncertain economic times ahead, the construction industry needed to be supported. She would be supporting the application.

Councillor Small remarked that Members had heard it could be several months before a decision was forthcoming from the Scottish Government regarding the Proposed LDP; applications could not be put on hold until then. He had been very impressed with the site, all the infrastructure was in place; this had to proceed. He supported the application.

Councillor Findlay agreed there was an issue of prematurity. He expressed serious concerns about capacity on the North Berwick train line. He remarked that the financial contribution Network Rail recommended to the applicant was in his opinion insufficient. He supported the officer's recommendation for refusal of this application.

Councillor Trotter indicated he would be supporting the officer's recommendation for refusal.

The Convener made reference to the numerous times the Wallyford application had come before the Committee; it was the most consulted planning site in East Lothian to have gone through the LDP process. There had been a huge consultation exercise with hardly any

negative comments. The amount of investment on this site was far greater than seen on any other site. Once development was completed Wallyford would be one of the most attractive towns in East Lothian with a new primary school, a new secondary school and 500 affordable homes, desperately needed in this part of the county. Regarding prematurity he remarked that this Committee had to continually make difficult decisions. He would be supporting the application. He moved to the vote on the report recommendation (for refusal):

For: 4
Against: 7
Abstentions: 0

Mr McFarlane outlined the process that would require to be carried out given the Committee's decision to grant planning permission.

Decision

The Committee agreed to grant planning permission in principle subject to:

- 1 A Section 75 Agreement in relation to developer contributions, to be determined by the Service Manager-Planning, in consultation with the Convener and local members;
- 2 A separate legal agreement between the applicant and Network Rail to secure from the applicant to Network Rail a financial contribution of £457,674;
- 3 Conditions to the grant of planning permission in principle to be determined by the Service Manager-Planning, in consultation with the Convener and local members; and
- 4 Application 14/000903/PPM be part revoked in respect of the land for the secondary school.

3. PLANNING APPLICATION NO. 16/01019/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 15/00473/PPM – ERECTION OF 120 HOUSES, 40 FLATS AND ASSOCIATED WORKS, DOLPHINSTONE FARM, EDINBURGH ROAD, PRESTONPANS

A report was submitted in relation to Planning Application No. 16/01019/AMM. Daryth Irving, Senior Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

In response to questions from Councillor Currie about the cemetery Mr Irving stated that this was part of the planning permission in principle application; the application before Members was for the detailed housing element only. Mr McFarlane clarified that the cemetery was not a material consideration for this application but advised that missives had been concluded between the Council and the landowner to enable the site to come to the Council for delivery as a cemetery. An update would be requested from Amenity Services and forwarded to Members.

Mark Evesham of Barratt Homes, the developer, confirmed that 160 units would be provided on this site, which included 40 affordable homes. He stated that 240 direct jobs would be provided by this project; he also gave details of the construction and economic spend. He added that if planning permission was granted work would commence in October.

Local Member Councillor Innes remarked that he had supported the original application largely due to the cemetery provision and the affordable housing element. Prestonpans had a significant number of new houses, unfortunately planning permission had been granted before the 25% rule regarding affordable housing provision had been implemented; the town did not have the same level of affordable housing as other towns in the county. He added

that although 40 affordable housing units did not seem a large amount this number would contribute significantly. He would be supporting the report recommendation.

Councillor Currie stated that provision of land for burial purposes was important as was the affordable housing element. He would be supporting the report recommendation to grant consent. He added that any possible lighting and road signage improvements to this stretch of road would be welcomed.

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

For: 11

Against: 0

Abstentions: 0

Decision

The Committee agreed to grant approval of matters specified in conditions for the proposed housing development subject to the following 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 adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

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

- 2 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions, a detailed specification of all external finishes of the houses and flats of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the houses shall conform to the details so approved.

Reason:

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

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, or of any subsequent Order amending, revoking or re-enacting the 1992 Order, no development of the types specified in Classes 1A, 1B, 3A or 3B of Part 1 of Schedule 1 of the Order or in any statutory instrument revoking and/or re-enacting that Part of the Order shall be undertaken on the houses to be erected on plots 1, 11 or 80-91 as shown on the docketed site layout drawing no. 16141(PL)001 M, or on any part of the gardens of those plots, unless with the prior approval of the Planning Authority.

Reason:

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

- 4 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces and footpaths shall have been constructed on site, in accordance with the docketed drawings and those areas of land shall not thereafter be used for any other purpose than for accessing and for the

parking of vehicles in connection with the residential use of the houses and flats and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

- 5 Notwithstanding that which is shown on docketed drawing no. J2927-011 Revision B, no development shall commence unless and until the existing 40 miles per hour (mph) speed limit on the B1361 road has been extended along the entire length of the application site frontage which shall include village entry treatments. Details of the extension to the existing 40 miles per hour speed limit and village entry treatments shall be submitted to and approved in advance by the Planning Authority and shall include the provision of street lighting along the length of it. Thereafter the extended 40 miles per hour speed limit, village entry treatments and street lighting shall be implemented and installed in accordance with the details so approved.

Reason:

In the interests of road safety.

- 6 Construction traffic to and from the site shall not take their route through either Musselburgh Town Centre, Prestonpans or along Salters Road unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of road safety.

- 7 The glazing specification for residential properties with noise sensitive rooms (that being either a living room, dining room or bedroom) facing the B1361 road within the 'Zone requiring improved mitigation to windows' in Figure 4 of the docketed 'Environmental Noise Impact Assessment - Dolphinstone Prestonpans' shall be such that glazing units have a minimum Sound Reduction Index of 35dB Rwi. These glazing units shall also have acoustic trickle vents with a minimum performance of 38dB Dn, e.

The Glazing specification for residential properties within the 'Standard Zone' as shown in Figure 4 of the docketed 'Environmental Noise Impact Assessment - Dolphinstone Prestonpans' shall be such that glazing units have a minimum Sound Reduction Index of 30dB Rwi. These glazing units shall also have acoustic trickle vents with a minimum performance of 33dB Dn, e.

Prior to the occupation of any of the residential properties within the 'Zone requiring improved mitigation to windows' in Figure 4 of the docketed 'Environmental Noise Impact Assessment - Dolphinstone Prestonpans', 1.8 metre high acoustic fence barriers shall be erected in the positions shown for them in Figure 4 of the docketed 'Environmental Noise Impact Assessment - Dolphinstone Prestonpans', with the fencing being of a close boarded form with no holes or gaps.

Thereafter such form of attenuation shall be retained in place unless otherwise approved by the Planning Authority.

Reason:

In the interest of safeguarding the residential amenity of future occupiers of the proposed residential development.

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

Reason:

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

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

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

Reason:

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

- 10 Prior to the occupation of any of the residential units hereby approved a timetable for the implementation of the play area and its equipment also as hereby approved hereby approved shall be submitted to and approved in advance by the Planning Authority and the play area and its equipment shall be installed in accordance with the timetable so approved.

Reason:

In the interests of the amenity of the development.

- 11 Prior to the occupation of any of the residential units hereby approved a timetable for the erection of the natural stone wall to be erected along the entire length of the southern side of the dedicated landscaped strip on the northern boundary of the site as hereby approved shall be submitted to and approved in advance by the Planning Authority and the natural stone wall shall be erected in accordance with the timetable so approved.

Reason:

In the interests of the amenity of the development and of the wider environment.

- 12 No development shall commence until temporary protective fencing has been erected in accordance with that shown in Section 7 and Appendix 1 of the docketed 'Tree Survey & Arboricultural Report for Dolphinstone Farm' and in the positions shown for it on docketed drawings nos. 0117(20)-01 Prot (1 of 2) and 0117(20)-01 Prot (2 of 2). The temporary protective fencing shall remain intact and in place through to completion of development.

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

Reason:

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

- 13 No development shall commence until a person who, through relevant education, training and experience, has gained recognised qualifications and expertise in the field of trees in relation to construction, has been employed by the developer to monitor any works within the root protection area or canopy spread of trees on or adjacent to the application site.

Reason:

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

- 14 No trees, shrubs or hedgerows which are to be retained on the site, other than the three trees with tag reference numbers 1394 (Oak), 1393 (Oak) and 1185 (Willow) as shown on docketed drawings nos. 0117(20)-01 Prot (1 of 2) and 0117(20)-01 Prot (2 of 2), shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

All tree management works shall be carried out under the supervision of an appointed Arboricultural Consultant in compliance with British Standard 3998: 2010 "Tree work ~ Recommendations" Section 7, Pruning and related work and Figure 2 - Positions of final cuts; leaving an overall balanced tree shape on completion of the works and with the recommendations of the docketed 'Appendix 4 - Tree Survey Schedule: Prestonpans West'.

Reason:

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

- 15 All new planting as shown on docketed drawings nos. 1048/02 Rev A, 0117(20)-01 Prot (1 of 2) and 0117(20)-01 Prot (2 of 2) and as specified in the Planting Schedule and Planting Notes sections of the docketed West Prestonpans planting document by Brindley Associates 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 and managed in accordance with the Landscape Maintenance and Management Proposals section of the docketed West Prestonpans planting document by Brindley Associates.

Reason:

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

- 16 Prior to the commencement of development a detailed woodland maintenance and management plan for all the existing and new planting along the former railway embankment on the eastern and southern sides of the application site shall be submitted to and approved in writing by the Planning Authority. The existing and new planting shall thereafter be maintained and managed in accordance with the detail so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

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

4. PLANNING APPLICATION NO. 16/00921/AMM – APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 15/00670/PPM – ERECTION OF 109 HOUSES, 16 FLATS, FORMATION OF ALLOTMENT AREA AND ASSOCIATED WORKS, TANTALLON ROAD, NORTH BERWICK

A report was submitted in relation to Planning Application No. 16/00921/AMM. Linda Ritchie, Senior Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

The Convener raised questions about SUDs ponds, remarking that often development sites were completed but Scottish Water would not adopt the area as the condition of SUDs ponds were not right. He queried how the Council could strengthen the conditions to ensure that an applicant got a SUDs pond to an acceptable state so that Scottish Water would adopt it. Mr McFarlane advised that this was a legal requirement for Scottish Water and as such the Council had to consider the extent to which it could control this; a developer would be expected to ensure that the final state of a SUDs pond was acceptable for adoption. He added that this issue formed ongoing discussions between local authorities, Scottish Water and the Scottish Government.

Local Member Councillor Findlay, in relation to affordable housing, expressed concern that developers had the option to make a financial contribution rather than providing these houses. He would be supporting the application.

Mr McFarlane clarified that the Council's policy on affordable housing, outlining the criteria which took the form of a hierarchy of on-site provision, off-site provision or a commuted sum. He stated that on almost all occasions affordable housing on site was secured.

Councillor Currie agreed, in respect of SUDs ponds, that developers should not be allowed to leave a site without completing work to the required standard for handover. He also agreed that provision of affordable housing on site was crucial. He supported the application.

Councillor Small commended that 5 bungalows that were to be provided; it was important to take into account the demographic of an area and having mixed housing types was welcomed. He would be supporting the report recommendation.

Councillor Innes supported all comments made; the Council should try and insist on a greater mix of housing types from developers. He would be supporting the application.

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

For: 11

Against: 0

Abstentions: 0

Decision

The Committee agreed to grant approval of matters specified in conditions for the proposed residential development subject to the following 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 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 No development shall take place on the site unless and until the following details have been submitted to and approved by the Planning Authority in consultation with the Council's Structures, Flooding and Street Lighting Team Manager:

- o Details of an investigation into the existing culvert located under Tantallon Road.
- o Details of any remedial measures to be taken if the investigation reveals any new surface water source within the site.

Development shall thereafter be carried out in full accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interest of the prevention of flood risk.

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

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

Reason:

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

- 4 Unless otherwise approved in writing by the Planning Authority, the toddlers play area hereby approved and the equipment and natural play areas approved to be formed in it shall be completed in its entirety following completion of the first 50 residential units of the development hereby approved

Reason:

In the interests of the amenity of the development.

- 5 All new planting, seeding and turfing as shown and specified on the landscape plan and planting schedules docketed to this approval 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.

No trees or shrubs, detailed in the docketed landscape plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner unless otherwise approved by 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 visual amenity of the area.

- 6 The external boundaries to the rear gardens of plots 8, 9, 10, 11, 12, 13, 26, 27, 28, 29, 30, 31, 32, 33, 34, 51, 52, 53, 54, 55, 56, and 58 as detailed in the site plan and landscape plan docketed to this approval shall be retained as 900mm high post and wire fences with hedge planting as per the docketed landscape plan.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, or of any subsequent Order amending, revoking or re-enacting the 1992 Order, no development of the types specified in Classes 3E of Schedule 1 of the Order or in any statutory instrument revoking and/or re-enacting that Part of the Order shall be undertaken on any part of the gardens of those plots unless with the prior approval of the Planning Authority.

Reason:

To protect the visual appearance of the development.

- 7 Unless otherwise approved in writing by the Planning Authority, no residential unit shall be occupied until the acoustic barrier fence hereby approved has been erected in its entirety in accordance with the details docketed to this approval. The acoustic barrier shall thereafter remain in place unless otherwise approved by the Planning Authority.

Reason:

In the interests of protecting the residential amenity of the occupiers of the residential units hereby approved from noise from the adjoining supermarket site.

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

Reason:

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

- 9 Driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m 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.

Reasons:

In the interests of road and pedestrian safety.

- 10 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces and footpaths shall have been constructed on site, in accordance with the docketed drawings and those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and flats and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

The footpath to be formed between Heugh Brae/Heugh Road and the parking spaces to the south of the allotments site shall be hard surfaced and lit in accordance with details to be submitted for the prior approval of the Planning Authority and thereafter shall be maintained as such unless otherwise approved by the Planning Authority.

Reason:

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

- 11 Unless otherwise approved by the Planning Authority all gully pots (road drains) and the kerbing to be installed adjacent to them throughout the site shall be specially designed to include amphibian ladders and recessed kerbs all in accordance with details to be submitted for the prior approval of the Planning Authority. Thereafter the gully pots and kerbs approved shall be maintained throughout the site unless otherwise approved by the Planning Authority.

Reason:

In the interests of the biodiversity of the area.

5. PLANNING APPLICATION NO. 17/00047/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 14/00431/PPM – ERECTION OF 120 HOUSES AND ASSOCIATED WORKS, LAND AT LIMEYLANDS ROAD, ORMISTON

A report was submitted in relation to Planning Application No. 17/00047/AMM. Daryth Irving presented the report, summarising the key points. The report recommendation was to grant consent.

Members debated the issues relating to the application, in particular the capacity at Ormiston Primary School. The Convener indicated that the Reporter had decided that in principle the school could be extended. He expressed concern; this application was premature and Members should not be making a decision at this time. For the Committee to act appropriately the school provision had to be looked at first; there should be a report from the Education Authority indicating whether an extension to the school was possible and the Committee could consider this application after that.

Mr McFarlane stated that a decision had been made in law by the Reporter and therefore the Council should accept this. The Council had explored whether that decision could be challenged and Counsel advice was that it could not. He added that there were many cases where the school provision was not finalised when a planning application came forward for determination.

Councillor Innes also had concerns; the reason the Committee had refused the original application was because the Education Authority had said it was not possible to extend the school to meet the needs of extra pupils. To date there was no evidence that this was different however the Reporter had said it was possible to extend the school. Members needed to be convinced that the school could be extended. This was a unique position; this application should be continued for further information from the Education Authority.

Councillor Small agreed with the Convener and Councillor Innes. .

Councillor Currie stressed that any decision taken by the Committee had to be lawful.

The meeting was adjourned for clarification of advice, thereafter reconvened.

Carlo Grilli, Service Manager, Legal and Procurement, advised that as the Reporter had approved the planning permission in principle application a decision had therefore been made. A decision on the design of the school extension would be a separate application for

consideration and could not be a deciding factor, the applications could not be linked; they were two separate applications to be determined on their own merits.

Mr McFarlane reiterated his earlier remarks; planning permission in principle had been decided by the Reporter on the basis that the education provision could be provided. Significant legal advice had been sought prior to this report coming forward which had formed the basis of the officer's recommendation to grant consent. If Members were minded to continue the application on the basis that there was not a specific education provision in place that decision would not be competent as it would go against the decision of the Reporter.

The Convener stated this was a difficult position for the Committee. Advice had been provided by Legal and Planning officers. The Committee had to make a decision, even though some Members were unhappy with the situation regarding the education provision.

Councillor Currie, referring to the advice provided by officers, stated that the Committee had no alternative; this application could not be continued.

Councillor Innes asked if a condition phasing the development to the school provision could be added. Mr McFarlane advised that there was a condition attached to the planning permission in principle; the applicant was required to submit a phasing plan, this would allow the Council and the applicant to reach an agreement on the number of completions per year, this was the driver of what needed to be built as regards the school roll. He indicated there would be further dialogue with the developer, which would allow for some scope to look again at the solution regarding the school. This may not be what some Members were looking for but would retain the competence of the earlier decision.

Responding to Councillor Trotter, Mr McFarlane said the Education Authority would be seeking a solution on site and in catchment. To further clarify, a condition was not being added; the planning permission in principle application already had a condition for the requirement to submit a phasing plan.

Mr Evesham of Barratt Homes informed Members that the Section 75 Agreement was in place. If planning permission was granted, work would commence in January 2018, the 120 units included 10 bungalows.

The Convener noted that Members were not happy that the earlier decision had been taken from the Council by the Reporter but this was the position the Committee now faced. If Members were minded to support the report recommendation with the condition in the planning permission in principle application regarding phasing as outlined by Mr McFarlane he would move to the vote (to grant consent):

For: 11
Against: 0
Abstentions: 0

Decision

The Committee agreed to approve matters specified in conditions for the proposed housing development subject to the following conditions:

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

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

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

Reason:

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

- 2 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions, a detailed specification of all external finishes of the houses of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the houses shall conform to the details so approved.

Reason:

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

- 3 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces and footpaths shall have been constructed on site, in accordance with the docketed drawings and those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

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

Reason:

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

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

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

Reason:

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

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

All weather notices shall be erected on said fencing with words such as "Construction exclusion zone - Keep out". Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used. Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees. Any materials whose accidental spillage would

cause damage to a tree shall be stored and handled well away from the outer edge of its RPA. Fires on sites should be avoided if possible. Where they are unavoidable, they should not be lit in a position where heat could affect foliage or branches. The potential size of a fire and the wind direction should be taken into account when determining its location and it should be attended at all times until safe enough to leave.

Reason:

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

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

Reason:

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

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

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

Reason:

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

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

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

Reason:

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

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

Reason:

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

Signed

Councillor Norman Hampshire
Convener of the Planning Committee