

**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 5 September 2017

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

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

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Application No. **16/01029/AMM**

Proposal Approval of matters specified in conditions of planning permission in principle 06/00770/OUT - Erection of 140 flats and associated works

Location **Former Tesco Store And Adjacent Land  
Mall Avenue  
Musselburgh  
East Lothian**

Applicant Dundas Estates And Development Co Ltd

Per Michael Laird Architects

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

Although this application is for the approval of matters specified in conditions of planning permission in principle 16/01029/PPM it has to be determined as a major development type application because the number of dwellings detailed is greater than 49. Accordingly, the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

Outline planning permission 06/00770/OUT (now known as planning permission in principle) was granted in September 2008 for the principle of a mixed use development on some 8.8 hectares of land located close to Musselburgh Town Centre. The majority of that site forms part of the former Brunton Wire Works and had lain vacant as a cleared site for a number of years. The principles of the approved mixed use development the subject of outline planning permission 06/00770/OUT include a retail store, residential development, a primary health care centre, a care home for the elderly (including a day centre and associated specialist housing with support) and associated access roads and car parking. Condition 3 of outline planning permission 06/00770/OUT requires that each of the approved uses is restricted to the area of the site designated for it on the masterplan docketed to the outline planning permission. Condition 4 of outline planning permission 06/00770/OUT states that no more than 140 residential units shall be erected on the application site.

In December 2011 planning permission 11/00827/PM was granted to vary Condition 1 of planning permission 06/00770/OUT to extend the time period for the submission of Approval of Matters Specified in Condition of planning permission 06/00770/OUT by a further 3 years.

In November 2014 planning permission 14/00757/PM was again granted to vary Condition 1 of planning permission 06/00770/OUT to extend the time period for the submission of Approval of Matters Specified in Condition of planning permission 06/00770/OUT by a further 3 years.

In September 2008 planning permission 06/00769/FUL was granted for the erection of a Tesco superstore, petrol filling station, car parking and associated works on part of the former Brunton Wireworks and which formed the western part of the site granted outline planning permission 06/00770/OUT in September 2008. The Tesco store is complete and operational.

In January 2010 the approval of Reserved Matters 09/00500/REM of planning permission 06/00770/OUT was granted for the erection of a new Primary Care Centre and associated works on the south eastern part of the site. The Primary Care Centre has been constructed and is in operation.

The application site forms the northeast component of the former Brunton Wireworks site. It was last in use as a Tesco Supermarket. That retail use ceased a number of years ago and the supermarket building has since been demolished. It has since lain vacant as a cleared site for a number of years. It is within Musselburgh Town Centre. It is bounded to the north by Mall Avenue with the river Esk and its landscaped embankment beyond, to the south by an area of vacant land on which approval was given through the grant of planning permission 06/0070/OUT for the erection of the care home for the elderly. To date no application for the care home has been received. To the east are the houses of Dalrymple Loan and to the west of the site are the four storey flatted tenement buildings that are on the corner of Mall Avenue with Inveresk Road with the Tesco supermarket and its car park beyond.

The site is adjacent to the south side of the Musselburgh Conservation Area. The former Musselburgh High Church which is adjacent to the east side of the bus depot is listed as being of special architectural or historic interest (Category B). Some of the buildings on the west side of Dalrymple Loan are also listed as being of special architectural or historic interest – one Category B and the others Category C.

Approval of Matters Specified in Conditions is now sought for the erection of 140 flats on the application site.

The proposed 140 flats would be contained within 8 rectangular shaped flatted buildings. Two of the buildings (blocks 3 & 4) would front onto Mall Avenue and would be 6 stories high. Four of the buildings (block 2,4,5 & 6) would be either 4 or 5 stories high and would be positioned behind the 6 storey flatted blocks fronting onto Mall Avenue and between the existing 4 storey tenement building front onto Inveresk Road and the houses on the west side of Dalrymple Loan. Block 8 would be 3 stories high and would front onto Inveresk Road, with the gable of block 7, which would be 4 stories high and would have a frontage onto that road.

There would be a mix of one, two and three bed roomed flats (nineteen x one bed flats, ninety five x two bed flats, twenty x three bed flats and six x three bed penthouse apartments.) Of the 140 flats 129 would be for private sale and 11 would be affordable.

The proposed flatted blocks would be finished externally with buff coloured and black coloured bricks broken up with elements of dark grey coloured powder coated curtain walling and zinc cladding on some of their walls. They would have dark grey coloured aluminium framed windows and their roofs would be clad with dark blue/black coloured roof tiles.

The submitted details also include for the internal access roads, 145 parking spaces, cycle store, bin enclosures boundary treatments, landscaped open space, and associated works.

Vehicular, pedestrian and cycle access to the flats would be taken by way of an existing access junction from Inveresk Road. A separate pedestrian and cycle access would be formed from the site onto Mall Avenue.

The development would be landscaped with a mixture of hard and soft landscaping throughout the site. Existing trees on Mall Avenue adjacent to the northern boundary of the site would be retained as would some on the east and west boundaries of the site.

The application is supported by a Design and Access Statement. The Statement sets out the design principles and concepts that have been applied to the development.

The application is also supported by a Drainage Strategy Plan, a Noise Impact Assessment and a Tree Survey and Arboricultural Constraints Report.

Subsequent to the registration of this application, further drawings have been submitted showing alterations to the site layout. This has pushed the whole development some 2m south to allow a greater distance between the 2 flatted blocks adjacent to Mall Avenue and the line of mature trees on Mall Avenue. The amended drawings also to provide for refuse arrangements and to show ground surfacing additions and off site works.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 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 2 February 2016 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that a housing development of the site 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.

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

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

Relevant to the determination of the application is Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies H1 (Housing Quality and Design), ENV3 (Listed Buildings), ENV7, DP1 (Landscape and Streetscape Character), DP2 (Design), DP14 (Trees on or

Adjacent to Development Sites), T2 (General Transport Impact), DP20 (Pedestrians and Cyclists) and DP22 (Private Parking) of the adopted East Lothian Local Plan 2008.

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 Planning Policy: June 2014 and Planning Advice Note 67: Housing Quality.

Material to the determination of the application is Scottish Planning Policy: June 2014 on housing development and Scottish Government advice given in Planning Advice Note 67: Housing Quality.

Further policy and advice on design is provided in Scottish Planning Policy and Planning Advice Note 67: Housing Quality. 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.

Five written representations, two of which are from the same person, have been received in respect of this application. Four of the representations raise objections to the application.

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

The representations are summarised as follows:

\* The proposed care home is not mentioned or protected in the proposals and there is concern that the area left vacant is too small to accommodate such a facility. Does the

Council own any part of this land and has been keeping it for development?

\*the scale of the plan is too large for the space available for the number of flats proposed;

\*The colours of the external finishes should be softened;

\*The height of the buildings at 6 floors exceeds the tenements building and the highest trees on Mall Avenue. Is there any protection for these trees;

\* concerns the proposed cycle stores could encourage anti-social behaviour by potentially enabling intruders to access neighbouring gardens;

\* The height of block 1 and block 6 are higher than was consented through planning permission 06/00770/OUT and are unnecessarily tall. The design of the roof of block 6, which has additional parapets at roof level on the south east and north west corners, increase the mass of the end elevation and should be removed to improve the appearance from views from Dalrymple Loan;

\* The new development will sit between the stone tenements on Inveresk Road and the listed buildings on Dalrymple Loan. The proposed pale buff brick and black brick with black roof would be insensitive to this setting. Grey brick and grey roof tiles would be more appropriate and would help soften the visual appearance of these large blocks. The zinc cladding should also be a mid-grey colour and not the dark grey shown;

\* Impact on the privacy and amenity of neighbouring properties through overlooking and overshadowing;

\* objection to the moving of the whole development 2m south as this will increase the detrimental impact of the development on the gardens and houses of Dalrymple Loan;

\* The shifting of the whole development 2m south will result in the loss of the grass verge on the southern perimeter of the site, resulting in the loss of overhang room for parking; and

\* The shifting of the development 2m south is based on the assumption the trees on Mall Avenue will remain as they are. Instead the trees could be rationalised which would optimise healthy growth and would improve amenity on Mall Avenue and the outlook from the development, allowing blocks 3 & 4 to be reinstated to their original position.

There is also one letter of representation from the Musselburgh Conservation Society which is written in support of the application. They applaud the high density of the development on this town centre site. However, they ask that the buff brick facing on the river frontage should be replaced by ashlar stone cladding to reflect and enhance the development's situation on the edge of the conservation area and harmonise more closely with the existing tenement at the corner of Inveresk Road.

Musselburgh & Inveresk Community council, a consultee on the application, object to the application on the grounds of design.

By the grant of planning permission in principle 06/00770/OUT, approval has been given for the principle of the erection of 140 residential units on the application site. There can therefore be no objection in principle to the erection of the 140 residential units now proposed.

Therefore, in the determination of this application the Council, as Planning Authority, can

only concern itself with the siting, design and external appearance of the development and the landscaping of and means of access to the site. In this regard the detailed proposals have to be considered against relevant development plan policy and the illustrative masterplan and conditions attached to planning permission in principle 06/00770/OUT.

The details now submitted for approval are for a scheme of development comprising 140 flats, that would be within 8 rectangular shaped flatted blocks that would be between 3 and 6 stories high and which would range between 12.5m and 21.5m in height. The total number of units proposed accords with the outline planning permission granted for the site and the mix of flats includes a range of 1, 2 and 3 bedroomed flats.

Policy DP1 (Landscape and Streetscape Character) of the adopted East Lothian Local Plan 2008 requires, inter alia, that new buildings should be well integrated into their surroundings and be of a scale and character sympathetic to their surroundings. Policy DP2 (Design) requires (i) the use of a limited palette of materials and colours and (2) that new development should complement its surroundings and which will create or contribute to a sense of place and complement local character.

The application site sits between Dalrymple Loan to the east, Inveresk Road to the west and south, and Mall Avenue to the north. To the northeast side of the site, is a large brick built building that fronts onto Mall Avenue that is in use as a bus depot. The former High Church building and a restaurant sit between that bus depot and the junction with Dalrymple Loan. To the west side of the site is a 4 storey tenement building that sits on the corner of, and fronts onto, Mall Avenue with Inveresk Road and runs down the northern end of Inveresk Road. The 4 storey tenement buildings together with the former High Church building and bus depot are of a height and mass that creates a strong presence in this part of Musselburgh Town Centre.

The two 6 storey flatted blocks proposed for the northern front part of the site would be of a significant height, size and scale. However, as they would be of a similar height to the existing 4 storey tenement buildings to the east they would not appear as overly large or dominating features in their setting. Therefore, and as they would be orientated to front onto Mall Avenue and presenting extended linear elements in the streetscape, they would create a strong street frontage with a similar presence to the existing tenement building and the other buildings in this part of Musselburgh town centre. The existing belt of mature trees on the south side of Mall Avenue would, to a degree, soften the impact of the proposed frontages of the buildings.

The 2 flatted blocks proposed for Inveresk Road would comprise a 3 storey flatted block and a 4 storey block. The 4 storey block, which would be closest to the 4 storey tenement building, would, unlike the 3 storey block, have its shorter gable side elevation fronting onto Inveresk Road and its longer elevation fronting onto the access road into the development. The 3 storey flatted building would present a long linear frontage, similar to that of the 4 storey tenement building. Due to their positioning in relation to the higher, 4 storey tenement building, these 2 proposed flatted blocks would not appear as overly large or incongruous additions to the streetscene of Inveresk Road. Like the 2 blocks proposed to front onto Mall Avenue they too would create a strong presence in the streetscape that would sit comfortably alongside the 4 storey tenement building.

The remaining 4 flatted blocks would be a mixture of 3, 4 and 5 storey's in height and thus would be lower in height than, and be of a smaller size and scale than the 2 blocks fronting onto Mall Avenue. By virtue of this and of their set back position and containment behind the existing buildings on Dalrymple Loan and Inveresk Road, they would not appear overly incongruous or prominent in views from those public places.

It is proposed that the external finish of each of the proposed blocks would be of engineering brick with elements of zinc cladding. The use of engineering brick is not a finish that is common in residential buildings in East Lothian.

However, in accordance with Policy DP2 and as a reflection of the industrial heritage of the site and the brick built buildings that previously occupied the site, the use of brick as an external finish for the blocks would in this particular circumstance be acceptable. A condition can be imposed to require the submission of a scheme of final finishes with a palette of colours for the flats, which has due regard to the finishes of other buildings in the locality. Subject to the imposition of this condition, the proposed flatted blocks would be of a scale and character sympathetic to their surroundings and would contribute to a sense of place and complement local character. Therefore the proposed flatted buildings would be acceptably designed for their place and although the proposed buildings would appear distinctive they would nonetheless add architectural interest to the area, which is characterised by a variety of buildings of a range of ages, architectural styles and external finishes. The proposed flatted buildings would not, by their size, height and massing, be out of keeping with the size, height and massing of nearby flatted buildings or with the variety of architectural styles of the other buildings in the locality. They would not appear overly intrusive or incongruous in their position within the former Brunton Wire Works site.

The proposed flatted development would be positioned sufficiently far away from the listed building of the former Musselburgh High Church and from the listed buildings on the west side of Dalrymple Loan that it would not harm the setting of those listed buildings.

The site is capable of accommodating all of the proposed development including satisfactory vehicular and pedestrian access and amenity space without being an overdevelopment of it. The proposed development would not be of a density incompatible with existing densities of development in the area.

The application site lies to the south west of the Musselburgh Conservation Area. Having regard to the current vacant state of the site and its prominent location the development proposed through this application will enhance the setting of the Conservation Area and would not be harmful to it.

The Council's Service Manager - Strategic Asset and Capital Plan Management has confirmed that the proposed layout will not prejudice the development of the adjacent site, which has planning permission in principle for a care home for the elderly. She does however advise that the location of the access road differs from that agreed when the site was conveyed to the Council and this needs to be amended. This is a separate legal matter and not a material consideration in the determination of this planning application. Given their heights, positioning and orientation the proposed buildings would not give rise to a loss of sunlight or daylight to any neighbouring residence or garden. In their respective positions, the proposed flatted buildings would not be unacceptably overbearing, to the detriment of the amenity of any neighbouring residential property.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separating distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separating distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

The windows and glazed openings of the proposed flatted buildings would accord with the 9m and 18m Council Standards in relation to neighbouring residential properties. With regards Dalrymple Loan, the east elevation of the Block 6, the block proposed to be closest to Dalrymple Loan, would be some 14m away from the rear (west) elevation boundary of the rear garden of those houses and some 45m away from the rear elevation walls of the houses. Therefore, by virtue of their positioning and distance away from any existing neighbouring residential properties, the windows and other glazed openings to be formed in the elevations of the buildings would not lead to harmful overlooking of any neighbouring residential building or private garden.

The east elevation of block 3 and the west elevation of block 4 would be within 18m of each other. There would be glazed openings within every level on each of those elevations of those flatted blocks. As those glazed openings in each of the levels of those elevations would directly face the corresponding window opposite, they would allow for harmful overlooking. Therefore, it should be made a condition of a grant of planning permission that those glazed openings be obscurely glazed. Subject to that planning control the proposed flatted building development the flats would be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses and flats an appropriate level of privacy and residential amenity. They would provide an attractive residential environment for future residents of the proposed flats.

The Council's Team Manager for Structures, Flooding & Street Lighting raises no objection to the proposed development, although he recommends that a condition be imposed on an approval of matters to ensure that further details of an investigation into the existing culvert known as the Mill Lade and any remedial measures required to be taken to deal with any potential new surface water source within the site are submitted to and approved by the Planning Authority in consultation with the Council's Structures, Flooding and Street Lighting Team Manager. This matter can be secured through a condition on an approval of matters.

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

- \* The moving of the whole development some 2m southwards and away from the trees on Mall Avenue

- \* Amending the landscaping proposals within the site, and

- \* Removing a number of proposed footpaths outwith the site and within the grassed area of Mall Avenue.

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

Condition 6 of outline planning permission 06/00770/OUT states that no development shall take place until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work on the site of the proposed development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority. This part of the site the subject of outline planning



permission 06/00770/OUT has not yet had such an archaeological investigation undertaken. Therefore prior to development commencing an archaeological investigation should be carried out. This matter can be controlled through a condition of a grant of Approval of Matters.

As the site is within the battlefield site of the Battle of Pinkie Historic Environment Scotland has provided comments on the application. Historic Environment Scotland considers that the proposed development would have no significant impact on the battlefield landscape and thus raise no objection to the application.

On the above consideration the proposed development is consistent with Policy ENV7 of the adopted East Lothian Local Plan 2008.

In their respective positions, the proposed buildings would not harm the setting of any listed building within the vicinity of the site. On this consideration the proposed development is consistent with Policy ENV3 of the adopted East Lothian Local Plan 2008.

Condition 12 of outline planning permission 06/00770/OUT states that development shall not commence unless and until an acoustic report has been submitted to and approved in writing by the Planning Authority. A Noise Impact Assessment Report has been submitted with this application and the Council's Environmental Health Manager having assessed the details submitted raises no objection to the proposed development provided acoustic glazing is fitted within the windows of the flatted blocks. This matter can be controlled through a condition on the Approval of Matters Specified in Conditions. Subject to this planning control the Environmental Health Manager is satisfied that the occupants of the proposed residential units would benefit from a satisfactory level of privacy and residential amenity.

The Council's Environmental Health Manager also advises that whilst the impacts on local air quality, including the adjacent Air Quality Management Area in Musselburgh High Street are predicted to be negligible, a condition should be imposed on the grant of the Approval of Matters Specified in Conditions to provide 6 Electric Vehicle (EV) rapid charge points within the development. This matter can be controlled through a condition of a grant of Approval of Matters.

Condition 13 of outline planning permission 06/00770/OUT states that development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. A Site Investigation Report has been submitted with the application for Approval of Matters which recommends that a Remedial Strategy be produced that details the works required to address contamination issues on the site. Subject to the submission of the Remediation Strategy and the implementation of its recommendations the Council's Contaminated Land Officer raises no objection to the application.

On all of these foregoing findings on matters of design, layout, landscaping and amenity, and subject to the imposition of conditions, the proposed development is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies H1, DP1, DP2, DP14 and DP24 of the adopted East Lothian Local Plan 2008, and the Scottish Government Policy Statement entitled "Designing Streets" and Scottish Planning Policy: June 2014.

The principles of the means of accessing of the proposed residential development are already decided by the grant of planning permission in principle 06/00770/OUT. The submitted details for accessing the proposed residential units are in accordance with

these principles established by the grant of planning permission in principle 06/00770/OUT.

A total of 146 on-site car parking spaces are proposed. The Council's parking standards applicable for a development of the type and size proposed sets a need for the provision of 210 on-site parking spaces – 140 for the residents and an additional 70 parking spaces for visitors. However, the development is located in Musselburgh Town Centre and is close to the main bus routes into Edinburgh and to the 540 parking spaces of the Tesco Retail Store, and also to the council car park at Eskmills. Given this particular locational context, the Council's Road Services are satisfied that the proposed 146 spaces would be sufficient to serve the proposed development. Based on these considerations the proposed development is not a significant departure from Policy DP22 of the adopted East Lothian Local Plan 2008.

The Council's Road Services raise no objection to the submitted details provided:

- 1) Cycle parking is provided at a rate of 1 locker per flat or communal provision in a lockable room or shed;
- 2) A minimum of 6 electric car charging spaces be provided within the car parking areas of the proposed development;
- 3) The existing footway along the development frontage on Inveresk Road be relayed to match in to the materials used for the proposed development;
- 4) Bollards be installed to protect internal pedestrian only areas from indiscriminate parking;
- 5) The existing kerb line at Block 8 tie into the existing kerb line on the public road;
- 6) A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area be submitted to and approved by the Planning Authority prior to the commencement of development; and
- 7) A Green Travel Plan or a Residential Green Travel Pack be provided to minimise private car trips and to encourage use of alternative modes of transport such as trains, buses, cycling and walking.

These matters can be made conditions of a grant of Approval of Matters. Subject to the imposition of those planning controls Road Services are satisfied that the proposed development can be safely accessed by both cars, pedestrians and cyclists, that the development would not result in unacceptable traffic congestion on the local road network, and that it would not result in a road or pedestrian safety hazard. Road Services raise no objection to the application.

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

The mechanism of a financial contribution towards additional educational provision at Musselburgh Burgh Primary School and Musselburgh Grammar School for a housing development of 140 residential units has already been secured through the grant of planning permission in principle 06/00770/OUT.

The mechanism of the provision within the residential development of 25% affordable housing units (i.e. 11 units of the proposed 45 (the number of units exceeding 96) is already secured through the grant of planning permission in principle 06/00770/OUT.

The Council's Economic Development and Strategic Investment service raise no objection to the details of the 11 affordable housing units proposed.

## RECOMMENDATION

That approval of matters specified in conditions for the proposed flatted building development be granted 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 buildings 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 Samples of all external finishes of the development, including those of the flatted buildings hereby approved, shall be submitted to and approved in advance of their use on the development by the Planning Authority and the external finishes used shall accord with the samples so approved.

Reason:

In the interests of safeguarding the character and appearance of the development.

- 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 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.

- 4 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837\_2012 "Trees in relation to design, demolition and construction" has been installed, approved by the arboriculturist and confirmed in writing by the Planning Authority. The fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing shall be located along the full length of the northern site boundary and across the site from east to west to the north of the retained tree in the southwest corner of the site, shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and approved in writing by the Planning Authority.

All weather notices should be erected on said fencing with words such as "Construction exclusion zone - Keep out". Within the fenced off areas creating the Construction Exclusion Zones the following prohibitions must apply:-

- \_ No vehicular or plant access
  - \_ No raising or lowering of the existing ground level
  - \_ No mechanical digging or scraping
  - \_ No storage of temporary buildings, plant, equipment, materials or soil
  - \_ No hand digging
  - \_ No lighting of fires
  - \_ No handling discharge or spillage of any chemical substance, including cement washings
- 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.

Reason

In order to protect retained trees from damage.

- 5 Prior to the commencement of development a scheme of landscaping shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide details of: the height and slopes of any mounding on or re-contouring of the site including SUDS ponds/basin details, tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. Non-thorn shrub species should be located adjacent to pedestrian areas. The scheme shall include indications of all existing trees and hedgerows on and adjacent to the land, details of any to be retained, and measures for their protection in the course of development. Thereafter the landscaping of the development shall be in accordance with that approved landscaping plan, unless otherwise agreed in writing by the Planning Authority.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation or completion of any part of the development hereby approved, whichever is the sooner. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

All tree work to trees on and adjacent to the site shall be carried out in accordance with BS3998:2010 'Recommendations for Tree Work' and shall be approved in writing by the Planning Authority before work is carried out.

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 northern boundary walls shall be constructed in accordance with detail Section A-A on the drawing titled 'Landscape Wall Construction Details' with drawing number DMR.AR(PL)018 rev P1. Should it be found that the existing foundations of the existing boundary wall are unsuitable for construction of the new garden walls then details of an alternative wall construction in accordance with BS5837:2012 'Trees in relation to design, demolition and construction' to adequately protect the roots of the existing trees to the north of the site shall be provided to the planning authority for approval prior to any works commencing.

Reason:

To safeguard the health and vitality of the existing trees on Mall Avenue which make a significant contribution to the character and visual amenity of the Conservation Area.

- 7 Only the path shown on detailed drawing 'Mall Avenue Entry Paths Existing and Proposed' with drawing number DMR.AR(PL)019 revision P3 shall be constructed on the grassed area on the south side of Mall Avenue. This path will be kept outwith the root protection areas for the existing trees along Mall Avenue and located outwith the site. Any surfacing within the Root Protection Area must be carried out in strict accordance with section 7.4 of BS5837: 2012 "Trees in relation to design, demolition and construction ~ Recommendations".

Reason:

To safeguard the health and vitality of the existing trees on Mall Avenue which make a significant contribution to the character and visual amenity of the Conservation Area.

- 8 The glazed openings on the east elevation of block 3 and the west elevation of block 4, shall prior to the occupation of each of the flats those glazed openings serve, be fitted with obscure glazing in accordance with a sample of the obscure glazing to be submitted to and approved by the Planning Authority in advance of its use on the building. The obscure glazing of the glazed openings shall accord with the sample so approved. Thereafter the glazed openings on the east elevation of block 3 and the west elevation of block 4 shall continue to be obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the neighbouring residential properties.

9 Unless otherwise approved in writing by the Planning Authority, the outfall for the surface water drainage system into the existing (Mill Lade) culvert in Mall Avenue shown on docketed Drawing No. J3441-002 is not hereby approved. Instead, development of the site shall not commence unless and until the following have been submitted to and approved by the Planning Authority, following consultation with the Council's Structures, Flooding and Street Lighting Team Manager:

- o Details of an alternative outfall for the surface water drainage system;
- o A Surface Water Drainage Assessment, in accordance with the 'Water Assessment and Drainage Assessment Guide' produced by the SuDS Working Party, including details of pre and post development surface water flows;
- o Confirmation that Scottish Water will vest the Surface Water Drainage System following construction.

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 and to ensure adequate protection of the water environment from surface water run-off.

10 No development shall take place until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work on the site of the proposed development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

Reason:

To facilitate an acceptable archaeological investigation of the site.

11 The glazing specification of windows of bedrooms in proposed residential units throughout the development site shall be such so as to provide a Sound Reduction Index equivalent to 30dB. The glazing specification of windows of living rooms in all of the residential units throughout the development site shall be such so as to provide a Sound Reduction Index equivalent to 25dB. The windows of all glazing units of noise sensitive rooms (bedrooms/living rooms) in housing throughout the development shall be provided with acoustic trickle vents.

Reason:

In the interests of the amenity of those occupying the residential units.

12 The development shall be provided with 6 Electric Vehicle (EV) "rapid charge" points. Prior to the commencement of development details of the 6 Electric Vehicle (EV) "rapid charge" points, including a timetable for their provision, shall be submitted to and approved by the Planning Authority.

Development shall thereafter be carried out in accordance with the details so approved.

Reasons:

To minimise the impacts of the development on the Musselburgh Air Quality Management Area.

13 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

14 Prior to the commencement of development, details showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

- 1) Cycle parking shall be provided at a rate of 1 locker per flat or communal provision in a lockable room or shed.
- 2) The footway on Inveresk Road in front of Unit 7 shall be a minimum width of 2 metres.

- 3) The existing footway along the development frontage on Inveresk Road shall be relayed to match in to the materials used for the proposed development. Details to be submitted for approval;
- 4) Bollards shall be required to protect internal pedestrian only areas from indiscriminate parking. Details to be submitted for approval;
- 5) The existing kerb line at Block 8 shall tie into the existing kerb line on the public road. Details to be submitted for approval;

The details to be submitted shall include a timetable for implementation.

The residential development shall thereafter be carried out in accordance with the details so approved.

Reasons:

In the interests of road and pedestrian safety.

- 15 Prior to the commencement of development, a Travel Plan to minimise private car trips and to encourage the use of alternative modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority. The submitted Travel Plan shall include details of the measures to be provided, the methods of management, monitoring, review, reporting and duration of the Plan.

Development shall thereafter be carried out in accordance with the Green Travel Plan so approved.

Reason:

In the interests of ensuring sustainable travel patterns.

- 16 Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of the proposals to deal with contamination to include:

- 1 the nature, extent and type(s) of contamination on the site,
- 2 measures to treat/remove contamination to ensure the site is fit for the use proposed,
- 3 measures to deal with contamination during construction works,
- 4 condition of the site on completion of decontamination measures.

No use shall be made of any of the components of development hereby approved unless and until the measures to decontaminate the site have been fully implemented as approved by the Planning Authority.

Reason:

To ensure that the site is clear of contamination prior to the commencement of use of any of the components of development.