

**PLANNING COMMITTEE**  
**TUESDAY 27 MARCH 2018**

**PUBLIC DOCUMENT PACK**





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

**TUESDAY 6 MARCH 2018  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

Councillor N Hampshire (Convener)  
Councillor L Bruce  
Councillor S Currie  
Councillor J Findlay  
Councillor A Forrest  
Councillor N Gilbert  
Councillor S Kempson  
Councillor K McLeod  
Councillor J McMillan  
Councillor F O'Donnell  
Councillor B Small

**Other Councillors Present:**

Councillor J Goodfellow

**Council Officials Present:**

Mr I McFarlane, Service Manager – Planning  
Mr K Dingwall, Team Manager – Planning Delivery  
Mr C Grilli, Service Manager – Legal and Procurement  
Mr M Greenshields, Senior Roads Officer  
Mr C Clark, Senior Environmental Health Officer  
Ms J McLair, Planner  
Mr E Bean, Planner  
Mr J Allan, Planning Technician  
Ms P Bristow, Communications Officer

**Clerk:**

Ms A Smith

**Visitors Present:**

Item 2 – Mr N Sutherland, Ms L Morrison, Mr B Scott  
Item 3 – Ms N Woodward  
Item 4 – Mr E McIntyre  
Item 5 – Mr K Macdonald

**Apologies:**

Councillor C McGinn

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 6 FEBRUARY 2018**

The minutes of the meeting of the Planning Committee of 6 February 2018 were approved.

**2. PLANNING APPLICATION NO. 15/00192/PM: VARIATION OF CONDITION 8 (VI) AND (VII) AND CONDITION 12 OF PLANNING PERMISSION 09/00617/FUL TO ALLOW THE MOVEMENT OF VEHICLES AND THE UNDERTAKING OF SITE OPERATIONS OVER LONGER PERIODS OF TIME AND TO ALLOW THE OPERATION OVER A WIDER SITE AREA AT SMEATON BING, CARBERRY**

A report was submitted in relation to Planning Application No. 15/00192/PM. Iain McFarlane, Service Manager – Planning, presented the report, summarising the key points. The report recommendation was to grant consent.

Mr McFarlane, Marshall Greenshields, Senior Roads Officer and Colin Clark, Senior Environmental Health Officer, responded to questions from Members. They provided clarification on alleged breaches of restrictions and outcomes, monitoring of HGV movements, speed limits on roads leading to the site and noise assessment results. Mr McFarlane stated that there was a Route Management Plan in place, part of the original planning permission, and HGVs were directed to the main road not Crossgatehall.

Neil Sutherland of Wardell Armstrong, agent for the applicant, Hamilton Waste and Recycling, informed Members that his client had transformed a derelict bing into Scotland's leading recycling centre. They were a local company, employing 118 staff on site. He detailed his client's investment into Smeaton Bing. The recycling rate was 98.5% of all waste, only 1.5% went to landfill. A variation was sought to allow the remainder of the site to be used and for trucks to get to the site earlier. The Scottish Environment Agency (SEPA) controlled the site. Regarding queries about noise, considerable noise assessments were done on site. He added that should planning permission be granted his client would continue to invest £2million over each of the next 5 years and would employ an additional 50 staff.

Mr Sutherland responded to questions on several issues including the reason for the increase in operating hours, days when the site would not be operating, potential new business, pre-loading HGVs and HGV movements in/out of the site. Regarding questions about the relationship with neighbours and reporting mechanisms, Mr Sutherland stated that the applicant did not have a formal process in place but would take complaints on board informally. Objections tended to be directed to SEPA or the Council not to the applicant.

Lindsay Morrison spoke against the application. She said that to date the applicant had addressed complaints as necessary but there was still a noise issue when the crushing machine was in operation. Residents had no course of action other than to contact SEPA. This application showed complete disregard for neighbours. She urged Members to take residents' views into account, this proposal would mean the loss of the only peaceful period; she spoke on behalf of all Carberry residents and the Carberry Residents Association.

Brian Scott spoke against the application. His property was 30 metres from the site. He outlined several issues including noise, dust and odour pollution stating that despite SEPA attending the site this was a regular occurrence. Waste frequently came over from the site into his garden. There was no reason to increase the hours of operation, if these were changed to include night and weekend working there would be more complaints to SEPA. It was unacceptable to have this operation taking place 7 days a week and into the night.

Local Member Councillor McLeod stated that the extension to 2100 hours on weekdays was of concern; he felt that 2000 hours would be a suitable compromise and would put this forward as an amendment. Referring to comments made by the objectors, he noted that

issues had to be reported to SEPA. He hoped that relations between the applicant and neighbours would improve. He would be supporting the recommendation. Councillor Bruce seconded the amendment.

Councillor Small referred to numerous ongoing issues. He noted the various agencies involved in monitoring these environmental issues; the Council had to accept their assurance. Members had to consider the economic benefits; this was a successful business. Regarding site operation on Sundays he felt this was unnecessary, the neighbours were entitled to a day of rest; he would be putting forward an amendment to remove this condition. Referring to the original conditions regarding the direction of travel in/out of the site, he asked if this could be more prescriptive, whether a variation could be applied. Councillor Findlay said he would second Councillor Small's amendment to remove Sunday working.

Mr McFarlane advised that any amendment to a condition on the hours of operation needed a reason for the change. He stressed that SEPA and the Council's Protective Services Manager both deemed the hours proposed by the applicant acceptable. He advised that the same applied to Sunday operation. Regarding traffic, condition 1 repeated the original condition, it was included as an update; he gave assurance regarding compliance with this. Responding to Councillor O'Donnell's query regarding competency of these amendments, Mr McFarlane clarified that in respect of both amendments the Council would be going beyond its powers, as SEPA was the regulatory body.

As a further point of clarification, Mr Clark informed Members that the noise assessment carried out regarding extending the weekday period did not take into account aggregate crushing according to the consultant responsible so condition 3 (vii) needed amended to add *or between 1800 hours to 2100 hours on weekdays.*

Councillor O'Donnell referred to the benefits to East Lothian and the return to the local economy due to this business operation. She would be supporting the report recommendation but would not support Councillor Small's amendment, as she did not feel that Sunday should be treated any differently to any other day.

Councillor Findlay concurred with Councillor Small's comments about Sunday working. He appreciated that the enterprise was good for the local economy but felt that residents should have one day free from the noise. If both amendments were approved then he would support the report recommendation.

Councillor Bruce, referring to the reporting mechanism, felt it was odd that the only recourse for residents was to go to SEPA. He asked if it would be possible for a formal process to be set up for residents to report issues direct to Hamilton Waste and Recycling. Mr McFarlane repeated that regulation of the site was carried out by SEPA. He advised that it would be for the applicant to implement a reporting process as mentioned.

Councillor Forrest expressed some reservation about the increase in hours and associated traffic. He acknowledged that Hamilton Waste and Recycling was a major employer in the area and their recycling rate was excellent. Whitecraig was the closest major settlement; there was a need to make sure that all questions were answered, as people would be subjected to a 24:7 site operation.

Councillor Currie said he had a number of concerns about this proposal, including the potential for an escalating effect resulting in an industrial site operating 24:7. A forum for the neighbouring community to raise issues with the applicant, before involving the regulatory body, should be set up. He felt that there was a case for conditions to be approved on a time-limited basis, for 12 months, to allow the Planning Authority to ensure the operator adhered to the conditions and to allow local residents to protect their amenity. He supported

Councillor Small's amendment but would also be putting forward his amendment as outlined. Councillor Gilbert seconded this amendment.

Mr McFarlane reiterated that SEPA was the regulatory body, the Council would be acting beyond its powers; licensing of the site was key to operation of the site. Responding to further points about previous applications where time limits had been put on conditions, Mr McFarlane clarified that this had been where the Council was the regulatory body.

Councillor McMillan referring to sustainability issues praised the 98.5% recycling rate. He shared some of the concerns expressed but SEPA, as the regulatory authority, would be actively evaluating and monitoring the site. There were also steps that could be taken by the applicant to improve relationships with the local community to mitigate risks. On balance, he would be supporting the recommendation but would not be supporting any amendments.

Councillor McLeod said that given Mr Clark's comment he would remove his amendment.

Councillor Kempson remarked that she had been impressed by the very significant level of recycling taking place at this site. She would be supporting the report recommendation.

The Convener brought the discussion to a close. He referred to the site visit, stating that the scale of the applicant's operation was remarkable. He stressed that SEPA was the regulatory authority and cautioned Members against trying to alter controls that were the responsibility of the regulator. He would be supporting the recommendation to grant planning permission as set out in the report. He asked Members to vote on the amendments.

Amendment 1 (proposed by Councillor Currie, seconded by Councillor Gilbert)

Condition 3 – remove *unless with the prior written approval of the Planning Authority and insert for a period of 12 months from the date of this planning permission*

For: 5  
Against: 6  
Abstentions: 0

The amendment therefore fell.

Amendment 2 (proposed by Councillor Small, seconded by Councillor Findlay)

Condition 3 (vi) – remove the reference to timings of Sunday operations and insert *there shall be no operations on Sundays*

For: 4  
Against: 7  
Abstentions: 0

The amendment therefore fell.

Amendment 3 (put forward by the Senior Environmental Health Officer)

Condition 3 (vii) – after *no aggregate crushing shall take place on Saturdays or Sundays add or between 1800 hours to 2100 hours on weekdays*

For: 11  
Against: 0  
Abstentions: 0

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

For: 8

Against: 3

Abstentions: 0

### Decision

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

- 1 Within two months of the date of the grant of this planning permission a Traffic Management Plan embodying the measures of traffic control set out in Chapter 6 of the Environmental Statement docketed to planning permission 09/00617/FUL, to minimise the impact of construction and operational site traffic on the area and additionally measures to encourage more sustainable methods of travel by employees to and from the site, including the provision of cycle parking and car share schemes shall be submitted to and approved by the Planning Authority. The waste recycling facility shall be operated in accordance with the Traffic Management Plan so approved.

Reason:

In the interests of the amenity of the residents of the area, and in the interests of road safety.

- 2 If any of the planting, seeding or turfing carried out in accordance with the details of landscaping approved by the grant of planning permission 12/00346/PM within a period of five years from the date of the grant of this planning permission die, are removed or become seriously damaged or diseased they 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. The landscaping, tree planting and hedging shall continue to be maintained in accordance with the landscape and woodland management plan for the site approved by the grant of planning permission 12/00346/PM.

Reason:

In order to ensure the implementation and long-term maintenance of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 3 Unless with the prior written approval of the Planning Authority:

(vi) During the time period of 0400 hours to 0530 hours Monday to Friday inclusive the only activity on site for the operation of the waste recycling facility shall be the movement from the site of one pre-loaded HGV. During the period of time of 0530 hours to 0700 hours Monday to Friday inclusive the only activity on site for the operation of the waste recycling facility shall be the movement from the site of HGV's and skip lorries with a skip having already been attached to them during a previous working day's permitted hours of operation of the waste recycling facility. There shall be no loading or unloading of such HGV's or lorries with skips during the period of time of 0530 to 0700 Monday to Friday inclusive. During the time period of 0800 hours to 1700 hours on Sundays the only activity on site for the operation of the waste recycling facility shall be no more than two HGV's entering and two HGV's leaving the site per hour; those HGV's can unload.

(vii) Other than for (vi) above no operational working of the waste recycling facility, including vehicle movements shall take place within the site outwith the hours of 0700 to 2100 Monday to Friday inclusive and 0700 to 1800 on Saturdays. No aggregate crushing shall take place on Saturdays or Sundays or between 1800 hours to 2100 hours on weekdays.

Reason:

In the interests of protecting the amenity of residential properties within the area.

- 4 The site access with the A6124 public road shall have a visibility splay of 9 metres by 215 metres on each side of it so that no obstruction lies within the splay above a height of 1.05 metres. The gates for that access shall be set back at least 19 metres along the length of the new access road from the western edge of the carriageway of the A6124 public road and shall open inwards to the site.

Reason:

In order to ensure the safe turning and off-road stopping of HGVs accessing the site, in the interests of road safety.

- 5 Details of all external lighting proposed to be used within the site shall be submitted to and approved in writing by the Planning Authority prior to its erection. The lighting shall be positioned and designed to ensure that no light from within the site spills beyond the boundaries of the working area or access road to be formed as part of the development hereby approved.

Reason:

In the interests the amenity of nearby properties and of this part of the East Lothian countryside.

- 6 The development hereby approved shall be used solely for the purposes of waste recycling in accordance with the approved plans docketed to this planning permission and planning permission 09/00617/FUL, including the ancillary office, parking and storage facilities. No part of the site other than as set out in the Operational Site Plan drawing no. ED1149/003 docketed to this planning permission shall be used for the purposes of storage, separation, processing or recycling of waste or any other materials, nor for parking or storage of vehicles.

Reason:

To ensure that none of the operations of the waste recycling facility or use of the site is harmful to the rural character of this part of the East Lothian countryside or the Edinburgh Green Belt.

- 7 Any fuel oil stored on the site shall be bunded or contained such as to avoid any spillage of leaked oil. Details of such measures shall be submitted to and approved in writing in advance by the Planning Authority.

Reason:

To ensure the site does not become contaminated.

- 8 Within two months of the date of the grant of this planning permission a litter control plan for the site shall be submitted to and approved by the Planning Authority. The litter control plan shall detail the measures necessary to prevent windblown litter within the site and from leaving the site. The waste recycling facility shall be operated in strict accordance with the litter control plan so approved.

Reason:

In the interest of the amenity of the area.

- 9 All loaded lorries which enter and leave the application site shall have their loads fully enclosed or fully sheeted.

Reason:

In the interest of the amenity of the area.

**3. PLANNING APPLICATION NO. 18/00055/PM: REMOVAL OF CONDITION 5F OF PLANNING PERMISSION 16/00552/PM TO REMOVE THE REQUIREMENT FOR A FOOTPATH ALONG THE SOUTHERN SIDE OF THE A198 TO LINK IN WITH THE EXISTING FOOTWAY NETWORK FROM THE A198 AT LAND TO THE WEST OF ABERLADY**

A report was submitted in relation to Planning Application No. 15/00192/PM. Keith Dingwall, Team Manager – Planning Delivery, presented the report, summarising the key points. He referred to an issue raised at the site visit in relation to the pedestrian crossing advising that Members could, if desired, vary condition 5(e) to read (after Dropped kerb crossing points) *and associated warning signage*. The report recommendation was to grant consent.

Mr Dingwall and Mr Greenshields responded to questions regarding the possibility of having a traffic island, or some other kind of physical structure, the current speed limit and the possibility of extending the 30mph zone.

Mr Dingwall, in response to points raised and referring to his earlier suggestion to vary condition 5(e), advised Members that this could read *Dropped kerbs crossing points, associated warning signage and other speed reducing measures*. Following further discussion Mr McFarlane confirmed that liaison would take place as requested between officers, the Convener and Local Members regarding speed reducing measures.

Ewan McIntyre of EMA Architecture + Design, agent for the applicant, indicated that the applicant was happy to go ahead on the basis outlined.



The Convener moved to the vote on the report recommendation (to grant consent) with the amendment as outlined to condition 5(e):

For: 11

Against: 0

Abstentions: 0

### Decision

The Committee agreed to grant planning permission 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 Prior to the commencement of development a further Tree Survey and Arboricultural Constraints Assessment, including details of protection and mitigation measures shall be carried out for the trees at the junction of the A198 and The Pleasance and the junction of Elcho Terrace and Kirk Road.

The development hereby approved shall be carried out in strict accordance with a tree protection and mitigation plan that shall set out the protection and mitigation measures for the site as set out in the Tree Survey and Arboricultural Constraints Assessment docketed to this planning permission and that approved in writing by the Planning Authority as part of this condition.

Reason:

To ensure the retention of existing trees, in the interests of the visual amenity of the area.

- 3 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall include for:

Continuous hedge planting around the southwestern boundary of the site;

Hedge planting at the Kirk Road frontage;

Tree and hedge planting between the proposed houses to the south of existing houses at Elcho Terrace and The Pleasance;

Planting to the frontages of houses with integral garages to screen parking driveways;

Planting of native species trees of a variety of mixed species and with a sufficient number of large species;

It shall also provide details of: the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall also include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with a phasing plan to be submitted with the scheme of landscaping and any trees or plants which within a period of ten years from planting 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.

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.

- 4 No development shall take place until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work (Trial Trench Evaluation (5%)) on the site of the proposed development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 5 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 and thereafter shall be completed and brought into use in accordance with a phasing plan approved in writing in advance by the Planning Authority:
- a) The proposed accesses onto both the A198 and Kirk Road shall be designed in accordance with the Design Manual for Roads and Bridges, Volume 6;
  - b) The existing footway along the A198 providing access to the bus stop on the western side of the A198 / The Pleasance junction shall be widened to 2metres;
  - c) The existing bus stop flag on the Edinburgh bound carriageway to the west of the A198 / The Pleasance junction shall be upgraded to include a shelter;
  - d) The existing bus stop flag on the North Berwick bound carriageway to the east of the A198 / The Pleasance junction shall be upgraded to include a shelter;
  - e) Dropped kerb crossing points, associated warning signage and other speed reducing measures shall be provided in close proximity to the A198 / The Pleasance junction to allow pedestrians to cross the road to the north side of the A198 to access walkways and bus stops;
  - g) Raised Table traffic calming shall be constructed at the 2 priority junctions with Kirk Road;
  - h) The Section of Kirk Road on the Southern boundary of the village linking the proposed site to the A6137 Haddington Road is narrow and not suitable for the increase in 2 way traffic that shall be generated by the site. 3 vehicle passing places shall therefore be required to allow vehicles to pass one another without having to drive on the road verge;
  - i) The internal carriageway through the site in front of plots 11, 12, 23, 24,57 and 58 shall have a 2 metre wide footway on either side of the carriageway;
  - j) The remote footpath through the park area adjacent to the SUDS pond shall be constructed to an adoptable standard including street lighting;
  - k) The new roads junctions within the site shall have traffic calming measures to reduce vehicle speeds along the route in order to promote road safety. This shall include raised tables at junctions and crossing points with appropriate speed bumps at other locations;
  - l) Parking for the proposed residential elements of the development shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads - Part 5 Parking Standards;
  - m) All access roads shall conform to ELC Standards for Development Roads in relation to roads layout and construction, footways & footpaths, parking layout and number, street lighting and traffic calming measures;
  - n) Vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;
  - o) Driveways shall have minimum dimensions of 6 metres by 2.5 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 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;

p) Within residential private parking areas the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

q) No part of the development shall be occupied until a Residential Green Travel Plan (GTP) has been submitted and approved by the planning authority in consultation with Road Services. The GTP shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan;

r) 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; and

s) A detailed condition survey of the construction access route from the The Pleasance shall be jointly undertaken by the developer and East Lothian Council Road Services prior to commencement of the development. During the period of construction of the site a similar joint inspection shall be carried out to assess the condition of the route on the first anniversary of the commencement of the development and each subsequent anniversary thereafter. Any damage identified during the inspections as a result of construction activities shall be repaired or resurfaced by the applicant in compliance with the Council's specifications and requirements at no cost to the council as roads authority.

Reason:

In the interests of road and pedestrian safety.

6 Prior to the commencement of development further details of the SUDS scheme shall be submitted for the approval of the Planning Authority:

demonstrating that the site has a neutral impact on runoff rates from the development site; and providing details of the SUDS Outfall Pipe Design and route.

Thereafter the SUDS system shall be constructed in accordance with the details so approved.

Reason:

In the interests of drainage and flood risk management.

7 Unless otherwise approved in writing by the Planning Authority, the external finishes of the development shall be as shown on the Materials Plan and elevation drawings docketed to planning permission 16/00552/PM. Prior to the use of them on the development samples of all materials and finishes shall be submitted for the approval of the Planning Authority and thereafter the materials and finishes used on the development shall be as so approved.

Reason:

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

8 The number of residential units to be completed on the site each year shall be as follows unless otherwise approved in writing in advance by the Planning Authority:

Year 1 - 46 residential units  
Year 2 - 34 residential units  
Year 3 - 27 residential units

Should any completions be fewer per year than given above then the difference shall be added to the end of the 3 year phasing period and not to the year following on.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site and to ensure that there is sufficient education provision.

9 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. Such facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason:

In the interests of road safety.

- 10 Prior to the occupation of the last house or flat hereby approved, the proposed access roads, parking spaces, and footpaths shall have been constructed on site in accordance with the docketed drawings.

Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and flats and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

- 11 No residential unit shall be occupied unless and until details of artwork to be provided on the application site or at an alternative location away from the site have been submitted to and approved by the Planning Authority. The details shall include a timetable for the provision of the artwork. The artwork shall thereafter be provided in accordance with the details so approved.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

**4. PLANNING APPLICATION NO. 17/01185/PM: VARIATION OF CONDITION 2 OF APPROVAL OF MATTERS SPECIFIED IN CONDITIONS 11/00975/AMC – TO REMOVE REQUIREMENT FOR A FOOTPATH ON THE SOUTH SIDE OF THE B1348 ROAD (LINKS ROAD) TO THE EAST OF THE HOLIDAY VILLAGE ACCESS JUNCTION AT SETON SANDS HOLIDAY VILLAGE, PORT SETON**

A report was submitted in relation to Planning Application No. 15/00192/PM. Mr Dingwall presented the report, summarising the key points. The report recommendation was to grant consent.

Nicola Woodward, agent for the applicant, referred to a very constructive meeting with Planning Officers and hoped Members would support the report recommendation. She added that the stile and the footpath along the eastern boundary no longer existed.

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 planning permission subject to the following conditions:

- 1 All planting, seeding or turfing comprised in the landscaping drawings docketed to approval of matters specified in conditions 11/00975/AMC shall be carried out in the first planting and seeding season following the occupation of any of the additional 195 static caravans or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five 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.

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.

- 2 A new 2 metre wide footpath shall be formed on the south side of the B1348 road (Links Road), from the existing Double D islands on the B1348 road (links Road) to the west of the existing Holiday Village access junction, to the existing footpath at Sandy Walk.

Within two months from the date of grant of this planning permission, details of the proposed new footpath, including a timetable for its formation, shall be submitted to, and thereafter approved by the Planning Authority.

The new footpath shall thereafter be formed in full accordance with the details so approved.

Reason:

In the interests of road safety.

- 3 Unless otherwise approved in writing by the Planning Authority, within one month from the date of grant of this planning permission, a scheme to connect the development approved by approval of matters specified in conditions 11/00975/AMC to the public waste water network shall be submitted for the written approval of the Planning Authority, in consultation with Scottish Water.

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

Reason:

To protect people and the environment from the impact of waste water and ensure the development of the public sewerage network.

**5A. PLANNING APPLICATION NO. 17/00866/P: EXTENSION TO EXISTING SHOP (CLASS 1 USE) AND PROFESSIONAL SERVICES BUILDING (CLASS 2 USE) AT 2 LAW ROAD, NORTH BERWICK**

A report was submitted in relation to Planning Application No. 17/00866/P. Edward Bean, Planner, presented the report, summarising the key points. The proposed decision set out in the report was for refusal of the application. Listed building consent was sought separately, detailed in the next agenda item.

Keith Macdonald of Somner Macdonald Architects, agent for the applicant, said the report confirmed that class 1 and 2 use were suitable for North Berwick Town Centre, no statutory consultees had objected, there were no privacy or amenity issues for residents. The high quality design mirrored the pattern of buildings on the High Street. If they were taking down the boundary wall then they would be completely altering its character, however this was not proposed. Regarding making openings in the stone wall he pointed out that this wall had been altered previously. There were few opportunities for existing business space in North Berwick and a dearth of office space. He asked Members to approve the application.

Councillor McLeod asked who was responsible for the upkeep of the wall. The applicant stated it was mutual between him and the owners of the adjoining property.

Regarding points raised by Councillor Goodfellow about office space, Mr Macdonald reiterated that there was very little office space in the town centre.

Mr McFarlane, referring to a point raised by the agent about the setting of the listed building informed Members that the key question was the direct impact on the listed building to which the extension would be attached, rather than the impact on the setting per se. The determining issue was the significant effect on the building and the wall, Historic Environment Scotland's guidance was very clear on this.

Local Member Councillor Findlay felt there were significant issues regarding economic development and provision of office space in the town not addressed in the report. This proposal would provide the opportunity for the existing business to extend. The design was in keeping with other properties on the High Street. The old stone wall had already been altered previously. He would argue that the economic benefits outweighed the limited architectural loss. He would not be supporting the report recommendation.

Councillor Currie agreed with the officer's recommendation for refusal of the application.

Councillor McMillan remarked that the proposed development was interesting; it was modern yet would preserve many original aspects. The wall was an amazing piece of history. He would be supporting the application.

The Convener said he was aware that Planning Officers were very protective of conservation areas in East Lothian hence the report recommendation. However, on this occasion he felt that the proposal would enhance the area. It would also provide more economic development in the town centre, which would improve footfall and create more employment opportunities. He would be supporting this application.

The Convener moved to the vote on the report recommendation (for refusal):

For: 2  
Against: 9  
Abstentions: 0

**Decision**

The Committee agreed to grant planning permission subject to conditions to be determined by the Convener/local members and officers.

**5B. PLANNING APPLICATION NO. 17/00867/LBC: ALTERATIONS AND EXTENSION TO BUILDING AT 2 LAW ROAD, NORTH BERWICK**

A report was submitted in relation to Planning Application No. 17/00867/LBC. The proposed decision set out in the report was for refusal of the application.

For: 2  
Against: 9  
Abstentions: 0

**Decision**

The Committee agreed to grant listed building consent subject to conditions to be determined by the Convener/local members and officers.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 27 March 2018  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

**2**

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Application No. **17/00815/AMM**

Proposal Approval of matters specified in conditions 1 (a-n), 7, 8 and 9 of planning permission in principle 14/00732/PPM - Erection of 96 houses, 24 flats and associated works

Location **Land At Lempockwells Road  
Pencaitland  
East Lothian**

Applicant Stewart Milne Homes, Mrs S J Cameron and Mr F R Scott

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

Although this application is for the approval of matters specified in conditions of planning permission in principle 14/00732/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the number of dwellings detailed is greater than 49. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

This application relates to some 6.7 hectares of agricultural land on the west side of Lempockwells Road, on the southern edge of Wester Pencaitland.

The site is bounded to the north by the residential properties of Bruce Grove and Lamberton Court and by two areas of recreational amenity open space, to the east by a line of trees with Lempockwells Road beyond, to the south by more agricultural land and to the west by the Pencaitland Railway Walk public footpath with agricultural land beyond. It is currently open agricultural land and is situated on the southern edge of Wester Pencaitland. The site is somewhat elevated relative to the surrounding area and offers open views across the site. The northern edge is at a higher level than Bruce Grove. The site is screened to some degree from the east by tree cover and vegetation on the west side of Lempockwells Road.

In December 2014 planning permission in principle 14/00732/PPM was refused by East Lothian Council for a residential development of 120 houses on the application site. That decision was subsequently appealed to the Scottish Government Directorate for Planning and Environmental Appeals. On 16 September 2015, following the conclusion of a legal agreement to secure education and affordable housing contributions as well as contributions to play facilities and a footpath connection, the appeal was allowed and planning permission in principle 14/00732/PPM was granted subject to 10 conditions. Condition 2 of planning permission in principle 14/00732/PPM states that no more than 120 residential units shall be erected on the application site.

Approval of the matters specified in conditions 1(a-n), 7, 8 and 9 of planning permission in principle 14/00732/PPM is now sought for the erection on the application site of 96 houses and 24 flats (a total of 120 residential units) and for associated works.

Of the 96 houses to be erected within the site, 93 would be detached and 3 would be terraced. In terms of size, 10 of the 96 proposed houses would contain 6 bedrooms, 37 would contain 5 bedrooms, 29 would contain 4 bedrooms, 18 would contain 3 bedrooms and 2 would contain 2 bedrooms. The proposed development would include for 9 single storey houses, the provision of single storey houses being a requirement specified in condition 1a of planning permission in principle 14/00732/PPM. All the other houses would be two-storey.

The 24 flats to be erected within the site would be contained within 6, two storey flatted buildings each containing 4 flats. Of the 24 flats 8 would contain 2 bedrooms and 16 would contain 1 bedroom.

Of the 120 houses there would be a total of 90 private houses for sale. The houses would comprise of 15 different house types, including the provision of 30 affordable housing units which would be a mix of 3 bedroom houses of two different house types and 1 and 2 bedroom flats.

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

Vehicular and cycle access to the houses would be taken by way of a new access junction from Lempockwells Road. Pedestrian access to the site, as well as an alternative cycle access, would also be provided from Lempockwells Road and Bruce Grove.

A village green would be formed on the eastern part of the site and landscaped areas of open space would also be formed centrally within the site, on the southern part of the site and along the entire southeastern edge of it. A SUDS basin would be formed on the northeastern corner of the site.

There is no area indicated for equipped play within the site as in the determination of planning permission in principle 14/00732/PPM, a financial contribution was secured to enhance the existing play area at Lamberton Court, adjacent to the north boundary of the site, with additional facilities rather than provide a new facility within the application site.

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

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



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

Relevant to the determination of the application is Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies H1 (Housing Quality and Design), DP1 (Landscape and Streetscape Character), DP2 (Design), DP14 (Trees on or Adjacent to Development Sites), DP15 (Sustainable Urban Drainage Systems), C1 (Minimum Open Space Standard for new General Needs Housing Development), T2 (General Transport Impact), DP20 (Pedestrians and Cyclists), DP22 (Private Parking) and DP24 (Home Zones) of the adopted East Lothian Local Plan 2008.

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

Also material to the determination of this application is the Scottish Government Policy Statement entitled "Designing Streets". It provides an overview of creating places, with street design as a key consideration. It advises on the detail of how to approach the creation of well-designed streets and describes the processes which should be followed in order to achieve the best outcomes.

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

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

The main grounds of objection are summarised as follows:

- \* The proposed development would lead to a loss of residential amenity through overlooking, overshadowing and noise;
- \* The traffic generated by the proposed development would lead to added congestion on the local road network and result in a road and pedestrian safety hazard;
- \* The access to the proposed development would result in a road and pedestrian safety hazard;
- \* Construction traffic would pose a road safety hazard;
- \* The proposed development would result in the loss of a boundary hedge which the applicant has no right to remove;
- \* The proposed houses and flats would be out of keeping with existing houses;
- \* the proposed development would lead to flooding and drainage problems;
- \* there should be a play park provided; and

\* the land should not be built on as it is prime agricultural land.

By the grant of planning permission in principle 14/00732/PPM, approval has been given for the principle of the erection of 120 houses on the application site following technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. There can therefore be no objection in principle to the erection of the 120 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, the means of access to the site and the means of any enclosure of the boundaries of the site. In this regard the detailed proposals have to be considered against relevant development plan policy and the Illustrative Masterplan and conditions attached to planning permission in principle 14/00732/PPM.

The proposed residential development would form an extension to the southern edge of the western side of Pencaitland. It would be seen in relation to the existing housing on the west side of Lempockwells Road. In all of this, the proposed residential development would not be out of keeping with the character of the settlement and local area.

One of the principal objectives of the Council's approved Design Standards for New Housing Areas is to reduce the visual dominance of the car in the streetscape of new housing developments. The applicant has addressed this principle along the main frontage of the development by use of in-curtilage parking to the side of houses. Elsewhere on the site the applicant proposes to plant hedges along the front boundaries of the front gardens of the houses in the development. To some degree, this would serve to reduce the visual dominance of the car in these streetscapes. In this and in the design principles of the street layout the proposals generally respond to the requirements of the Design Standards.

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

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

The proposed layout is broadly consistent with the layout shown in the Illustrative Masterplan docketed to planning permission in principle 14/00732/PPM. The proposed houses, due to their positioning on the application site and by virtue of their height, size

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

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

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

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

On all of these foregoing findings on matters of design, layout and amenity, and subject to the imposition of conditions, the proposed development is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies H1, DP1, DP2, DP14 and DP24 of the adopted East Lothian Local Plan 2008, the Council's Design Standards for New Housing Areas and the Scottish Government Policy Statement entitled "Designing Streets".

As previously detailed, the proposed site layout includes areas of open space to be formed within the site. The Council's Principle Amenity Officer raises no objection to the application, satisfied that the size and locations of the areas of open space proposed will provide for adequate informal recreation for the proposed development. It is therefore consistent with Policy C1 of the adopted East Lothian Local Plan 2008.

Condition 3 of planning permission in principle application 14/00732/PPM requires the submission and approval of a scheme of landscaping prior to the commencement of development on the site, and thereafter secure the implementation of the scheme of landscaping. However, the approval of this matter as specified in Condition 3 of planning permission in principle application 14/00732/PPM is not sought through this application and thus the requirement to submit a landscaping scheme remains embodied in Condition 3 of planning permission in principle 14/00732/PPM and therefore remains in force. The applicant has submitted a Landscape General Arrangement Plan which indicatively shows where the landscaping for the site is to be undertaken, which demonstrates the layout can accommodate sufficient landscaping.

The principles of the means of accessing of the proposed residential development are already decided by the grant of planning permission in principle 14/00732/PPM. The submitted details for accessing the proposed residential units are in accordance with these principles established by the grant of planning permission in principle 14/00732/PPM. Also the principle of 120 residential units accessing the site from the local road network has already been decided acceptable by the grant of planning permission in principle 14/00732/PPM.

The Council's Road Services raise no objection to the submitted details, being satisfied that the proposed development can be safely accessed by both cars, pedestrians and

cyclists, that the development would not result in unacceptable traffic congestion on the local road network, and that it would not result in a road or pedestrian safety hazard. They advise that the location and amount of parking within the site is acceptable. Road Services recommend that detail of the path connecting the site to Bruce Grove be submitted to ensure it is accessible to all users. This requirement can be imposed as a condition attached to this approval of matters specified in conditions application.

Condition 4 of planning permission in principle application 14/00732/PPM requires the submission of a Green Travel Plan, to have particular regard to provision for walking, cycling and public transport access to and within the site. However, the approval of this matter as specified in Condition 4 of planning permission in principle application 14/00732/PPM is not sought through this application. The requirement to submit the Green Travel Plan is embodied in Condition 4 of planning permission in principle 14/00732/PPM and therefore remains in force. Thus there is no requirement to also secure this again through a condition attached to this approval of matters specified in conditions application.

Condition 5 of planning permission in principle application 14/00732/PPM requires the submission of a road safety audit for the proposed access junction from the site onto Lempockwells Road. However, the approval of this matter as specified in Condition 5 of planning permission in principle application 14/00732/PPM is not sought through this application. The requirement to submit the road safety audit is embodied in Condition 5 of planning permission in principle 14/00732/PPM and therefore remains in force. Thus there is no requirement to also secure this again through a condition attached to this approval of matters specified in conditions application.

Condition 6 of planning permission in principle application 14/00732/PPM requires the submission of a construction method statement to minimise the impact of construction activity on the amenity of the area. However, the approval of this matter as specified in Condition 6 of planning permission in principle application 14/00732/PPM is not sought through this application. The requirement to submit the construction method statement is embodied in Condition 6 of planning permission in principle 14/00732/PPM and therefore remains in force. Thus there is no requirement to also secure this again through a condition attached to this approval of matters specified in conditions application.

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

Condition 7 of planning permission in principle 14/00732/PPM requires the submission of a detailed flood risk assessment.

The applicant has submitted a Flood Risk Assessment.

The Scottish Environment Protection Agency (SEPA) and the Council's Team Manager for Structures, Flooding & Street Lighting have appraised the submitted Flood Risk Assessment and both raise no objection to the proposals, being satisfied that subject to the finished floor level of the residential units being set at least 600mm above the top of the banks of the watercourse which flows along southern and eastern boundaries of the site, the development would not constitute a flood risk. This requirement can be imposed as a condition on a grant of approval of matters specified in conditions. The engineering drawings submitted with the application demonstrate the proposed finish floor levels are already in excess of the 600mm level recommendation. Accordingly, the proposed development would not result in a flood risk.

Condition 8 of planning permission in principle 14/00732/PPM requires the submission of the details for the proposed sustainable urban drainage scheme (SUDS) should be submitted for the written approval of the Planning Authority, in consultation with SEPA. A SUDS scheme has been submitted to the Planning Authority, and this has been forwarded onto SEPA for consultation. On this matter SEPA raise no objection to the 120 residential units now proposed. The Council's Team Manager for Structures, Flooding & Street Lighting advises that SUDS scheme demonstrates that the surface water drainage strategy for the site is acceptable and raises no objection to the application.

Scottish Water raise no objection to the application.

Condition 9 of planning permission in principle 14/00732/PPM requires a scheme of intrusive investigation works to be carried out, and in the event that the intrusive investigation works identify the need for remedial works to treat any areas of shallow mine workings, the Planning Authority will immediately be informed, and development shall not begin until a scheme of remedial works on the site has been submitted to and approved in writing by the Planning Authority, and thereafter have been fully implemented as so approved.

The Coal Authority has appraised the Site Investigation Report submitted with the application and advise that the report has been informed by a range of sources of information including historic maps, geological maps, historic borehole data, a Coal Mining Report and the findings of the intrusive site investigations carried out on site. The Coal Authority they are satisfied that there is no requirement to carry out any further intrusive investigations as the risk from shallow coal mine workings is low. The Coal Authority therefore raise no objection to the application on the matter of ground stability.

The mechanism of a financial contribution towards additional educational provision at Pencaitland Primary School and Ross High School for a housing development of 120 residential units has already been secured through the grant of planning permission in principle 14/00732/PPM.

The mechanism of the provision within the residential development of 25% affordable housing units (i.e. 30 units of the proposed 120 units) is already secured through the grant of planning permission in principle 14/00732/PPM. The Council's Economic Development and Strategic Investment service raise no objection to the details of the 30 affordable housing units now proposed.

#### RECOMMENDATION:

That approval of matters specified in conditions 1(a-n), 7, 8 and 9 of planning permission in principle 14/00732/PPM for the proposed housing 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 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 The finished ground floor levels of the houses and of the flats to be formed at ground floor level in the flatted buildings all as hereby approved shall be set at no lower than 600 millimetres above the top of the banks of the watercourse which flows along the southern and eastern boundaries of the site.

Reason:

In order to mitigate against flooding.

- 3 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 and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses and flats, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the houses and flats shall conform to the details so approved.

Reason:

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

- 4 Prior to the occupation of the last 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 in the interests of road safety.

- 5 Prior to the commencement of development, the construction detail of the footpath link from the application site to Bruce Grove, as well as a timetable for its provision, shall be submitted to and approved in advance by the Planning Authority. The footpath link shall be formed in accordance with the detail and timetable so approved and shall thereafter remain in place unless otherwise approved by the Planning Authority.

Reason:

To ensure that adequate and satisfactory provision is made for pedestrian access in the interests of pedestrian safety.

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

Reason:

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

- 7 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 development 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.

*Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)*



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 27 March 2018  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

**3**

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Application No. **17/01120/PM**

Proposal                   Erection of 118 houses, 32 flats and associated works as changes to the scheme of development the subject of planning permission 14/00089/PM

Location                   **Letham Mains  
Haddington  
East Lothian**

Applicant                   Cala Homes East Ltd/SMH Central Scotland

Per                            GDLodge Architects

RECOMMENDATION        Consent Granted

#### PLANNING ASSESSMENT

This planning application relates to some 1.98 hectares of former agricultural land at Letham Mains, on the western side of Haddington. It includes the southern part of the public road of the B6471 West Road, which forms the northern part of the application site.

As the area of the application site is greater than 2 hectares and the principle of development is for more than 49 houses, the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation. The application is therefore brought before the Planning Committee for a decision.

The application site forms part of a larger area of land allocated by Proposal H3 (Letham Mains) of the adopted East Lothian Local Plan 2008 for a mixed use development of 750 houses, social and community facilities and associated infrastructure.

In May 2017 planning permission (Ref: 13/00519/PM) was granted for the erection of 385 houses and 48 flats on the western part of that allocated housing site. That land includes the land that is the subject of this planning application. Also in May 2017

planning permission (Ref: 14/00089/PM) was granted for the erection of 257 houses, 119 flats and associated works, including a sports pitch and two changing room facility on the eastern part of that allocated housing site.

In June 2015 planning permission (Ref: 14/00534/PCL) was granted for the erection of a primary school on the central part of that allocated housing site.

In December 2017 planning permission (Ref: 17/00105/P) was granted for the erection of 33 houses and associated works on part of the site granted planning permission 13/00519/PM, previously, as changes to that scheme of development.

In March 2018 planning permission 17/00900/P was granted for the erection of 34 houses and associated works on part of the site granted planning permission 13/00519/PM, previously, as changes to that scheme of development.

Planning permissions 13/00519/PM and 14/00089/PM were granted following the conclusion of a Section 75 Legal Agreement to secure (i) affordable housing; (ii) a financial contribution towards (a) upgrading the local path network, (b) primary and secondary education provision, and (c) sports provision in Haddington; (iii) transfer to the Council, at no cost, of ownership of the site for the school that is approved by planning permission 14/00534/PCL; and (iv) the provision of the sports pitch and the two changing room facility.

The originally concluded Section Legal Agreement would not apply to any planning permission that approves the variation or amendment of planning permissions 13/00519/PM and 14/00089/PM. It is however necessary to ensure that the requirements of the Section 75 Legal Agreement apply in respect of the now proposed development of 118 houses and 32 flats. In this regard, in March 2018 the Council approved a modification to the existing Section 75 Legal Agreement. The approved planning permission ensures that the Planning Obligation is effective in relation to a) any amendment or variation of the CALA planning permission by them or any subsequent planning permission relating to the CALA part of the development at Letham and b) any amendment or variation of the Taylor Wimpey/Mactaggart and Mickel planning permission by either of those parties or by any subsequent planning permission relating to the Taylor Wimpey/Mactaggart and Mickel part of the site at Letham. 18/00001/OBL was granted on 13th of March 2018 to amend clause 1 of the legal agreement so that it would apply to any amendment to planning permission 13/00519/PM and 14/00089/PM.

Development of the two housing sites has recently commenced.

This application site forms the northwest part of the site the subject of planning permission 14/00089/PM.

When this planning application was first registered it sought the erection of 112 houses and 43 flats as changes to the scheme of development granted planning permission 14/00089/PM. However, this would have increased the number of units on this part of the site by 5 which was not acceptable. Therefore, the applicant reduced the number of units by 5 and in doing so the description of the application was amended to accommodate this reduction.

Planning permission is now sought for the erection of 118 houses and 32 flats as changes to the scheme of development approved by the grant of planning permission 14/00089/PPM. The changes to the approved layout would affect 150 of the house plots within the part of the CALA component to the west side of the scheduled monument. It would also affect the layout of some of the parking approved by that grant of planning

permission. The proposed development would not change the overall number of residential units to be built on this part of the site but is proposing changes to their positioning and in some cases the orientation of those houses.

The proposed development would be comprised of 67 detached houses, 10 semi-detached houses, 41 terraced houses and 32 flats together with internal access roads, parking and landscaping.

Of the 118 houses 73 would be 5 bed, 28 would be 4 bed and 23 would be 3 bed and 2 would be 1 bed. Of the 32 flats, 2 would have 1 bedroom and 30 would have 2 bedrooms.

Most of the proposed housing would be accessed from the approved distributor road at the western side of the site by way of two points on the eastern side of that distributor road. The remaining houses would be accessed from an access to be formed in the new distributor road to be formed from at the eastern side of the site. There would be no direct access to any of the proposed houses from the B6471 West Road.

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

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

Policies 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Proposal H3 (Letham Mains) and Policies H1 (Housing Quality and Design), H2 (Development Frameworks), DP1 (Landscape and Streetscape Character), DP2 (Design), T2 (General Transport Impact), DP20 (Pedestrians and Cyclists), DP22 (Private Parking) and DP24 (Home Zones) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

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

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

It is stated in Scottish Planning Policy that the Scottish Government's objectives of creating successful places and achieving quality residential environments should guide the whole process of delivering new housing. Further policy and advice on design is provided in Designing Places and Planning Advice Note 67: Housing Quality which explains how Designing Places should be applied to new housing. In PAN 67 it is stated that the planning process has an essential role to play in ensuring that: (i) the design of new housing reflects a full understanding of its context - in terms of both its physical location and market conditions, (ii) the design of new housing reinforces local and Scottish identity, and (iii) new housing is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful attention to

detailed aspects of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing should take account of the wider context and be integrated into its wider neighbourhood. The quality of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not only to setting and layout and its setting, but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

There is no public objection to the application.

By the grant of planning permission 14/00089PM, approval has already been given for the erection of 376 residential units on the western part of the land of Letham Mains. As there would be no increase to the 376 residential units already approved there can be no objection in principle to the erection of 118 houses and 32 flats on the application site, as now proposed.

The details now submitted for approval show a layout of development that is not significantly different to the layout of development already approved for this part of the Letham Mains site. Full regard has been had to the terms of the approved Master Plan that relates to the wider site, and is in conformity with the overall provisions of the Master Plan.

The site occupies an important gateway location in approaches to Haddington from the west of the town. The layout of the proposed housing and flatted blocks have been carefully designed to respect this gateway location. The northernmost residential units of this development, which would also face onto West Road, would be set back from West Road by a landscape strip. The remaining components of this development will comprise a mix of detached, semi detached and terraces houses that would be either two or three storeys in height and flatted blocks that would also be 3 storeys in height. By their architectural form and positioning the houses and flatted blocks now proposed would not cause any incongruous change to the architectural harmony, integrity and character of the scheme of housing development approved for the Letham Mains housing site. Therefore and provided there is compliance with the scheme of external finishes approved for the development as a whole by the grant of planning permission 14/00089/PM the changes to the houses and flatted block would be acceptable. In this regard, whilst some articulation of the houses and flatted blocks with reconstituted stone or timber is acceptable, notwithstanding that shown on some of the application drawings, the predominant finish of each of the elevations of the houses and flatted blocks should be render. This matter can be controlled by a condition imposed on a grant of planning permission for the proposed houses and flatted blocks. Subject to compliance with that aforementioned condition, the proposed houses and flatted blocks are broadly consistent with the requirements of the Council's approved development framework for Letham Mains and with the Masterplan docketed to planning permissions 13/00519/PM and 14/00089/PM. In their proposed groupings and orientation, the houses and flatted blocks would be broadly consistent with the principles of 'Home Zones' as set out in the Council's Design Standards for New Housing Areas, as would the proposed layouts of roads and pathways, with their use of pinch points and shared surfaces to restrict traffic priorities and speeds.

Subject to the control over their finishes the proposed houses and flatted blocks would, by their size, height, design, finishes and layout integrate and sit comfortably with the built architectural form and layout of the existing housing of the area and with the scheme of housing development already approved for the Letham Mains site.

The site is capable of accommodating all of the proposed development including vehicular and pedestrian access without being an overdevelopment of it.

The proposed positioning of the 118 houses, the 32 flats houses and other components of the development would not prejudice the remainder of the housing development already approved in detail by planning permissions 13/00519/PM and 14/00089/PM.

The proposed houses would be laid out in such a way as to give an acceptable standard of residential amenity to their future occupants.

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 proposed houses would be located sufficiently far away from the new housing to the north of the site (to the north of the B6471 West Road) so as not to adversely affect their privacy or amenity. The proposed houses would be so sited, orientated and screened such as not to harm the privacy and amenity of any neighbouring residential property.

The Council's Environmental Health Manager raises no objection to the proposed development.

On the considerations of design, layout and amenity the proposed residential development is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies H1, H2, DP1, DP2 and DP24 of the adopted East Lothian Local Plan 2008.

No changes are proposed to either the size or locations of the areas of open space approved by planning permission 14/00089/PM. Similarly no changes are proposed to the equipped play areas already approved for that part of the Letham Mains housing site.

The Council's Road Services advise that the six visitor parking spaces shown on the southern side of the most southerly road of the development are surplus to requirement. Therefore, subject to the removal of those 6 visitor parking spaces the Council's Road Services are satisfied with the detailed proposals for site access and parking which are consistent with Policies T2, DP20 and DP22 of the adopted East Lothian Local Plan 2008.

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

The matter of flood risk was fully considered in the assessment of application 14/00089/PM. The Scottish Environment Protection Agency raise no objection to the development now proposed.

As stated above, planning permissions 13/00519/PM and 14/00089/PM were granted following the conclusion of a Section 75 Legal Agreement to secure (i) affordable housing; (ii) a financial contribution towards (a) upgrading the local path network, (b) primary and secondary education provision, and (c) sports provision in Haddington; (iii) transfer to the Council, at no cost, of ownership of the site for the school that is approved by planning permission 14/00534/PCL; and (iv) the provision of the sports pitch and the

two changing room facility.

The Council's Legal and Procurement Services has advised that the modification to the Legal Agreement approved by the Council in March 2018 (Ref: 18/00001/OBL) will ensure that the Section 75 Legal Agreement applies in respect of the now proposed development of 118 houses and 32 flats. On this basis planning permission should now be granted subject to the undernoted conditions.

**CONDITIONS:**

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

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

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed 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 The external finishes of the houses and the flatted blocks are not hereby approved. Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses and flatted blocks 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 and flatted blocks shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses and flatted blocks 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. The render colours shall have due regard to the finishes of other residential properties in Haddington. However, some use of timber or reconstituted stone would be acceptable providing it is limited to a distinctively complete feature of the houses and flatted blocks and respectful of their design integrity. All such materials used in the construction of the houses and flatted blocks 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 No residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the occupation of the final residential unit approved for erection on the site.

**Reason:**

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

- 4 Housing completions on the application site and otherwise on the site of planning permissions 13/00519/PM and 14/00089/PM in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not cumulatively exceed the following completion rates, unless otherwise approved in writing by the Planning Authority:

Year 1- 05 residential units  
Year 2- 60 residential units

Year 3- 75 residential units  
Year 4- 74 residential units  
Year 5- 75 residential units  
Year 6- 75 residential units  
Year 7- 69 residential units

If less than the specified number of residential units are completed in any one year then those shall be completed instead at Year 8 or beyond and not added to the subsequent Year.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 5 No more than 300 residential units shall be occupied within the allocated Letham Mains site unless and until the school approved by the grant of planning permission 14/00534/PCL has been completed and is made available for use.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 6 Prior to the commencement of development, a timetable for the erection of the natural stone wall along the northern part of the site shall be submitted to and approved by the Planning Authority.

Prior to its erection a sample of the natural stone to be used for the stone wall shall be submitted to and approved by the Planning Authority.

The natural stone wall shall thereafter be erected in accordance with the details so approved.

Reason:

To ensure the natural stone wall is of a satisfactory appearance in the interest of the amenity of the locality.

- 7 Notwithstanding the landscaping details hereby approved, no development shall take place until there has been submitted to and approved in writing by the Planning Authority a comprehensive 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 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 the land, details of any to be retained, and measures for their protection in the course of development.

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.

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.

- 8 The maintenance of all communal landscape areas, and hedges to private front gardens, as defined on the 'Proposed Site Layout' with drawing number PL 002 rev P shall be adopted and maintained by a Factor or a Residents Association in accordance with details to be submitted to and approved by the Planning Authority prior to the occupation of any residential units hereby approved.

Reason:

To ensure the retention and maintenance of landscaping on the site in the interest of amenity.

- 9 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. Such facility shall be retained in working order and used such that

no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason

In the interests of road safety.

- 10 A Travel Plan shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved. The Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

The Travel Plan shall thereafter be implemented in accordance with the details so approved.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the residential development.

- 11 A Construction Management Plan 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 Management Plan shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work and delivery routes. It shall confirm that construction access to the site shall not be permitted via the Knox Place junction via West Road. All construction access shall instead be taken directly from West Road. The Management Plan shall also include the phasing of the development and restrictions that may be required, particularly for those travelling to existing and/or proposed schools. It shall also include details of how the habitat of the Letham Burn will be protected during the construction phase of the development.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 12 Prior to the commencement of development, a programme for monitoring the condition of the section of the public road of West Road (the B6471) between the Oak Tree roundabout and the application site, prior to and immediately following the completion of the housing development, shall be submitted to and approved in writing by the Planning Authority. Thereafter the approved programme of monitoring shall be implemented. Any remedial works shown by the monitoring as arising from the construction of the development, shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:

To ensure that damage to the public road network resulting from the construction of the housing development is rectified.

- 13 A play area with equipment suitable for children aged 0 - 15 years shall be provided on the area of open space of the application site which is to the south of plot 42 and to the south of the flatted block containing flats 43-49 and its associated parking area as shown on docketed site layout drawing no. PL002 Revision P. Prior to the commencement of the development hereby approved the details of the play equipment and surfacing materials to be installed in the play area shall be submitted to and approved in advance by the Planning Authority. The details to be submitted shall include a timetable for its installation.

The play equipment shall thereafter be installed in accordance with the details so approved.

The equipped play area, when provided, shall 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 play areas in the interest of the amenity of the future occupants of the residential units hereby approved.



- 14 The east elevation wall of flatted block A which will be positioned on the corner of West Road with the new distributor road shall be articulated with either additional windows and/ or with architectural detailing, the details of which shall be submitted to and approved by the Planning Authority prior to the commencement of development. When completed that east gable elevation wall shall accord with the details so approved unless otherwise approved by the Planning Authority.

Reason:

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

- 15 The six visitor parking spaces shown on the most southernly road of site plan PL 002 revision P - to the south of plots 82, 87 & 88 and 89 & 90 - are not hereby approved and a continuous grass verge shall instead be formed along the south side of that road.

Reason:

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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 27 March 2018  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

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*Note - this application was called off the Scheme of Delegation List by Councillor Henderson for the following reasons: I believe wider consideration and inspection of this application, within a conservation area, is desirable, specifically to enable full appreciation of the number and nature of formal objections. In addition, I believe the Planning Committee should be allowed to consider just how materially different, or not, this application is from the proposed development, which was refused permission on this site in November 2017, again specifically with the objections in mind.*

Application No.      **18/00012/P**

Proposal              Erection of 1 house and associated works

Location              **Garden Ground To The Rear Of 7, 9 And 11 Nungate Road  
North Berwick  
East Lothian  
EH39 4PD**

Applicant             Mr Hew Dalrymple

Per                     Ford Design Ltd

RECOMMENDATION      Consent Granted

#### PLANNING ASSESSMENT

The application relates to an area of land which currently forms part of the garden ground of the residential properties at 7, 9 and 11 Nungate, North Berwick. The site is within a predominantly residential area as defined by Policy ENV1 of the East Lothian Local Plan 2008. It is also within the North Berwick Conservation Area. The residential properties of 7, 9 and 11 Nungate are not listed as being of special architectural or historic interest.

To the north of the site are the residential properties of 7, 9 and 11 Nungate and their associated communal garden ground. These cottages are single storey, stone built properties with pitched roofs. There are two later flat roof extensions on the northern elevations of the cottages. The front elevations of numbers 7 and 9 Nungate are to the south of the properties, facing towards their respective garden areas. Number 11 fronts towards Nungate Road (to the west). This property is separated from the road by its front garden which is approximately 5 metres deep. This property also has a side

garden parallel to the garden of number 9, which extends from the gable to the southern boundary.

The cottage gardens are currently approximately 14 to 19 metres long with a high hedge along the southern boundary. There is a low timber fence and gate at the south east corner of 7 Nungate. A pathway runs along the south of the buildings, allowing accesses to all three gardens. The gardens have a number of domestic outbuildings in them, such as greenhouses and sheds but have an open character with low boundary treatments between them.

The site is bounded to the south by a high boundary hedge beyond which is a public park. Within the park is Abbey Farm Dovecot which is situated approximately 33 metres from the site boundary and is listed as being of special architectural or historic interest (Category B).

To the east, the site is bounded by a high random rubble wall, approximately 3 metres in height. This forms the western boundary of the residential property at 5 Nungate which adjoins the site to the east. The north eastern part of the site is currently an area of existing hard standing. The site is accessed via this area and the unadopted lane to the north of the existing cottages. The lane also provides access to the houses at 3 and 5 Nungate.

In September 2017 planning permission (Ref: 17/00514/P) was refused for the erection of 1 house on a site which extended along the whole of the rear gardens of 7, 9, and 11 Nungate. The proposed house was positioned at the west of the site to the rear of 11 and 9 Nungate. The reasons for refusal were:

“1) The proposed development would lower the level of amenity that residents of 7, 9 and 11 Nungate enjoy by substantially reducing their open garden ground, resulting in insufficient private garden ground for number 11 Nungate. Moreover, it would have an overbearing effect on the garden of 9 Nungate. In all of this, the proposed development would have an unacceptable impact on the amenity of the residents at 7, 9 and 11 contrary to Policy DP7 of the adopted East Lothian Local Plan 2008.

2) The proposed house and associated works would result in an incongruous building which would appear crammed onto the site. Moreover, the location of the building on this site would result in the loss of the visual relief that the open and attractive garden grounds currently provides, in addition to the visual transition that they make between the cottages and the trees to the south. The insertion of the house on the restricted site and disruption of the historic link between the gardens and the cottages would have a significant detrimental impact on this part of the North Berwick Conservation Area. On this consideration the proposal is contrary to Policy ENV4 of the adopted East Lothian Local Plan 2008.

3) The proposed development would result in the loss of a willow tree. The willow tree contributes positively to the character of the Conservation Area and is an attractive feature. The applicant has not demonstrated that the tree requires to be removed for safety reasons and its removal would not contribute more to the good planning of the area than would retaining the tree. On this consideration the proposal is contrary to Policy NH5 of the adopted East Lothian Local Plan 2008”.

The site that is the subject of this planning application is different from that the subject of planning application 17/00514/P. It does not include the garden ground to the rear of 11 Nungate, and it also includes slightly less of the garden ground to the rear of 9 Nungate. The site the subject of this application does however include slightly more of

the garden ground to the rear of 7 Nungate, as well as now including the coal sheds that are on the east gable of 7 Nungate.

Planning permission is now sought for the erection of 1 house and associated works on the application site. The proposal includes the demolition of the coal sheds on the east gable of 7 Nungate. The applicant has submitted a supporting statement setting out how they have sought to address the previous reasons for refusal.

The proposed house would be an 'L'-shaped building with a north facing hipped gable. Skews are proposed on the south and north elevations. It would be a three bedroom, single storey house with accommodation in the roofspace. Two bedrooms and a bathroom would be located upstairs and a bedroom, WC/showerroom, kitchen and dining/livingroom would be located on the ground floor.

The height of the property to ridge would be approximately 6.2 metres and 3.3 metres to eaves. The house would be approximately 11 metres wide (north and south elevation) and 10.5 metres deep.

The walls of the proposed house would be finished in a harled render with stone detailing, the roof would be clad in pantiles with metal rainwater goods. The parking bay and hardstanding areas, including paths, would be a mixture of gravel and block paviers.

One rooflight is proposed on the northern hipped roof and four rooflights on the southern roof pitch. One upper floor window is proposed on the west elevation which would be from a bedroom. No windows are proposed on the east elevation. Bi-fold doors are proposed on the western gable opening into the garden. The front door of the house would be on the west elevation, next to a small window from a WC/ shower room. Two ground floor windows are proposed on the south elevation and one on the north.

The garden area for the proposed house would be to the west of the building. The western and northern boundary of the proposed garden area, which would adjoin the existing gardens of 7, 9 and 11 Nungate, would be bounded by a beech hedge. This would extend to overlap the north elevation of the proposed house. A 1.8 metres screen fence and gate is proposed around the hipped section separating it from neighbouring gardens. The south of the proposed garden would be bounded by the existing leylandii hedge and stone wall. The existing hedge would be replaced by a 1.8 metres fence behind the stone wall for a small section near the south west corner of the house. The existing beech hedge would then continue along the remainder of the southern boundary. The eastern side of the site would be bounded by the existing high, stone wall shared with 5 Nungate.

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.

Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV1 (Residential Character and Amenity), DP1 (Landscape and Streetscape Character), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), ENV4 (Development within Conservation Areas) and DP22 (Private Parking) of the adopted East Lothian Local Plan are relevant to the determination of the

application.

Material to the determination of the application is Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Scottish Government's policy on development affecting conservation areas given in Scottish Planning Policy: June 2014.

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 Planning Advice Note 67: Housing Quality.

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

9 written public objections have been received to the application, the main points of which are summarised below:

- \* This would be overdevelopment of the site;
- \* Although the design has been amended it would still have a huge impact on the existing properties/ the reasons previous proposal was refused have not been addressed;
- \* The house would directly overlook neighbouring properties and bedroom/ rooflight on north facing low roof would overlook neighbouring properties;
- \* The proposed 6 foot fence would compromise the light into a bedroom on neighbouring property and result in poor aspect for existing properties;
- \* The parking area would be very intrusive and close to 7 Nungate and a bedroom window at 5 Nungate;
- \* Increased traffic down the lane would affect the tranquillity of 3,5,7,9 and 11 Nungate;
- \* The proximity of the proposed house to the old wall and existing buildings is concerning and could damage foundations;
- \* The wall between the site and land to the east is aesthetically pleasing and would be

largely blocked by the proposed house;

- \* The proposed house would be larger than existing cottages/ 2 storey house would be crammed onto the site;
- \* The house would be overbearing and would overshadow existing houses/ gardens;
- \* The house would look incongruous and wrong for the historic context/ it would be out of keeping in style and size;
- \* The wet dash render and masonry paint would be unsightly and unacceptable in the conservation area;
- \* The front of the houses and main living rooms are to the south, facing the proposed development. The aspect from neighbouring gardens would be a blank wall/ existing aspect will be detrimentally affected;
- \* Restriction of vehicular access for neighbouring properties;
- \* The loss of the gardens / division of the gardens in the Conservation Area will impinge on the serenity and beauty of the area. There are few unspoilt areas of North Berwick left and this should be preserved;
- \* The setting of the cottages would be ruined, which have beech hedge, ancient and attractive stone wall and sympathetic and proportionate layout of the garden. The gardens and cottages were part of Abbey Farm and part of local heritage;
- \* The new build would not enhance the Conservation Area;
- \* Detrimental impact on the amenity of 7, 9 and 11 Nungate;
- \* The garden ground of 7, 9 and 11 Nungate would be reduced to unsatisfactory level;
- \* An area for wildlife would be lost;
- \* The demolition of the coalhouse is unnecessary and will alter the character of the cottages. The extensions are part of the integrity of the building;
- \* The proposal is contrary to Policies DP7;
- \* If supported the house should be reduced to single storey and natural stone used; and
- \* The proposed house will affect the view from neighbouring property.

The perceived loss of a private view is not a material consideration in the determination of a planning application.

North Berwick Community Council discussed the above proposal and voted to object to the application. They make the following points:

- \* Policy DP1 of the East Lothian Local Plan 2008 refers to landscape and streetscape and require buildings to be well integrated with the surroundings. The proposal does not integrate but replaces green space;
- \* The proposal is not appropriate in terms of position; size, massing, proportion and scale and therefore contrary to Policy DP2 of the East Lothian Local Plan 2008;
- \* The proposed house contrasts with rather than complements the context in which it sits;
- \* The character of Nungate is not 'urban' as described in the supporting statement. The area has a distinctive, semi-rural feel;
- \* The proposed development fails to meet the requirement of Policy DP7 which requires that infill is 'sympathetic to its surroundings [and] over-development of the site will be unacceptable" and "There should be no material loss of green-field land or open space.... [that are] important to the character of the area".

The application site is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. Policy ENV1 does not actively promote the development of land for new build residential development. The principal purpose of Policy ENV1 is to ensure that the predominantly residential character and amenity of its area of coverage is safeguarded against the impacts of land uses other than housing. However Policy ENV1 does state that infill, backland and garden ground

development will be assessed against Policy DP7 of the adopted East Lothian Local Plan 2008.

The proposed new house plot comprises part of the garden ground of the communal garden ground of 7, 9 and 11 Nungate. It is within a predominantly residential area with residential properties to the north and east of it. The building of a house on the site would amount to urban infill housing development, the principle of which is supported by Policy DP7 of the adopted East Lothian Local Plan 2008.

With respect to infill, backland and garden ground development Policy DP7 of the adopted East Lothian Local Plan 2008 states that, amongst other principles of development, it must, by its scale, design and density be sympathetic to its surroundings and not an overdevelopment of the site.

Policy DP2 of the adopted East Lothian Local Plan 2008, amongst other things, requires that all new development must be well designed and integrated into its surroundings.

In this case regard must also be paid to the desirability of preserving or enhancing the character or appearance of the North Berwick Conservation Area as required by Scottish Planning Policy: June 2014 and Policy ENV4 of the adopted East Lothian Local Plan 2008. Regard must also be had to the reasons for the refusal of previous planning application 17/00514/P.

Thereafter, the principal determining factor in this case is whether, having regard to national, strategic and local planning policy and guidance and other material considerations the design, positioning and layout of the proposed new house and the works associated with it are acceptable, with due regard to their potential impact on the character and residential amenity of the area, including their impact on the amenity of neighbouring residential properties and their impact on the character and appearance of North Berwick Conservation Area.

The exterior walls of the proposed house would be finished in a harled render with stone detailing, the roof would be clad in pantiles with cast iron rainwater goods. The windows and doors of the proposed house would be of timber construction.

The buildings situated on the west side of Nungate Road are of different architectural designs. There is no dominant special layout in the immediate area of the site, with various layouts and sizes of properties and their garden. The two storey Telephone Exchange building is a substantial building with walls that are predominantly finished in dry dash render. To the south of that building is the single storey terrace of houses of 7, 9 and 11 Nungate. Those buildings have predominantly stone walls and pitched roof clad in natural slate. Whilst not listed, those houses make a positive contribution to the character and appearance of the Conservation Area. Further to the west of 7, 9 and 11 Nungate is the single storey dwelling of 5 Nungate.

In its position the proposed house would inevitably somewhat change the open character of the garden ground to the rear of 7, 9 and 11 Nungate. However in its position the proposed house would not be an incongruous addition to Nungate Road or to this part of the Conservation Area. In terms of its modest architectural style and finishes the proposed house would sit comfortably in its position with the architectural style, finish and appearance of the neighbouring houses in the Conservation Area. There is sufficient land within the site to accommodate the proposed house, with a sufficient sized garden and adequate parking provision and vehicular access without there being an overdevelopment of it. In its set back position, the proposed house



would not appear harmfully dominant or intrusive, and would not be an incongruous addition to the pattern and density of the built form of this part of North Berwick. It would be an acceptable form of infill housing development of the site that would not be harmful to the character and appearance of this part of the Conservation Area.

In their positions and due to their form and where applicable, the proposed proposed fencing, areas of hardstanding and other associated works would not appear as harmfully intrusive or incongruous features in their relationship with the proposed house. In their positions, they would not be harmful to the setting of the proposed house or the character and appearance of the Conservation Area.

Unlike the house proposed in the previous application, the location of the now proposed house would not result in the loss of the visual relief that the open and attractive garden grounds currently provides. This is because the western part of the communal garden ground of 7, 9 and 11 Nungate would remain undeveloped, thereby preserving open views from Nungate Road towards the southwest. In these views there would remain a visual transition between the cottages and the trees to the south.

There is sufficient land within the site to accommodate the proposed house, with a sufficient sized garden and adequate parking provision and vehicular and pedestrian access without there being an overdevelopment of it. Development of the site would not result in any loss of open space important to recreation or amenity requirements.

On the foregoing consideration of design the proposed development does not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies ENV4, DP1, DP2 or DP7 of the adopted East Lothian Local Plan 2008 or with Scottish Planning Policy: June 2014 and Planning Advice Note 67: Housing Quality.

The Council's Landscape Officer does not raise an objection to the proposal. They note that the proposals enable retention of the existing landscape setting of the area. The beech hedge to the southern boundary is located to the south side of the boundary wall and will not be impacted by the proposals. A short section of the Leylandii hedge to the west of the beech hedge will be removed to the boundary of the new house. The remaining Leylandii hedge will be retained to form a screen to the garden and new beech hedging planted to form the garden boundary between the new garden and the gardens of 7-11 Nungate. They recommend that the site be fenced off from the neighbouring garden ground during construction to protect these gardens and existing landscaping within them. This can be controlled by condition.

Unlike the previous planning application, the proposed development would not result in the removal of the willow tree from the communal garden ground serving 7, 9 and 11 Nungate.

Policies DP2 and DP7 of the adopted East Lothian Local Plan 2008 require, amongst other considerations, that new development should not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

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 separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the

windows of existing neighbouring residential properties.

One first floor window is proposed on the west elevation. This would face towards the garden ground of the proposed house, which is 9 metres in length. This window and the patio doors on the west elevation would also therefore have 9 metres between them and the boundary. The ground floor windows on the north elevation would face towards the parking area. It would be at a 45 degree angle to the ground floor window of 5 Nungate, which is within the boundary wall. Due to the acute angle there would not be direct views between the windows. The neighbouring window would continue to look onto a parking area.

The front door and side window would be screened by a 1.8 metres high fence. The rooflights would be at such an angle that they would not directly look into any existing windows. Therefore, there would no unacceptable overlooking or loss of privacy for existing neighbouring properties.

On the matter of the impact of the proposed house on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair.

By virtue of its height, size and positioning, the proposed house would not, in accordance with such guidance, give rise to a harmful loss of daylight and sunlight to the neighbouring residential properties of 7, 9 and 11 Nungate. Nor would it give rise to a harmful loss of daylight or sunlight to any other neighbouring residential property.

The proposed house should also receive a sufficient amount of daylight (skylight) and its garden a sufficient amount of sunlight.

The occupiers of the proposed house would benefit from sufficient privacy and residential amenity.

The properties of 7, 9 and 11 Nungate are served by a communal garden to the south of the their houses. Whilst there would be a reduction in the amount of communal garden ground, there would remain sufficient garden ground to serve those existing 3 houses.

The existing gravelled area has been indicated for parking and concern is raised by objectors that use of this would harm the privacy and amenity of adjoining residents. However this area is currently surfaced with stone chips and could be used for parking. In this regard, use of the proposed access and parking would not have a significant detrimental impact on residential amenity of existing residents.

On the considerations of privacy and amenity the proposed development is consistent with Policies DP2 and DP7 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Health Manager has no comment to make on the application.

The Council's Road Services raise no objection to the proposed development, being satisfied that the proposals for site access and parking are to an acceptable standard. On this consideration the proposed development is consistent with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

The Council's Waste Service raise no objection to the proposal and note that refuse collection would be at the kerbside to the front of the proposed house.

## 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 Samples of the materials to be used as external finishes of the house, for the areas of hardstanding and the fencing all hereby approved shall be submitted to and approved by the Planning Authority prior to their use in the development. Only those materials approved by the Planning Authority shall be used as the external finishes of the house, for the areas of hardstanding and boundary wall.

Reason:

To secure a standard of development that is appropriate to its location and in keeping with its surroundings in the interests of safeguarding the character and appearance of the North Berwick Conservation Area.

- 3 Prior to the house hereby approved being brought into use the proposed vehicle access and parking arrangements shall be laid out as shown in docketed drawing no. 09 (Proposed Plans & Elevations) and thereafter the access and parking areas shall be retained for such uses.

Reason:

In the interests of road safety.

- 4 During the construction phase of the development, the application site shall be fenced off from the neighbouring garden ground. Details of the proposed fencing shall be submitted to and approved by the Planning Authority in advance, and development shall thereafter be carried out in accordance with the details so approved.

Reason:

To protect these gardens and existing landscaping within them, in the interest of the character and appearance of the area.

- 5 Prior to the commencement of development, details of all boundary treatments, including a timescale for their installation, shall be submitted to and approved by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of the residential amenity of the area.

*Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)*