

PLANNING COMMITTEE

TUESDAY 5 JUNE 2018

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

**TUESDAY 1 MAY 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 C McGinn
Councillor J McMillan
Councillor F O'Donnell
Councillor B Small

Council Officials Present:

Mr I McFarlane, Service Manager – Planning
Mr C Grilli, Service Manager – Legal and Procurement
Ms E Taylor, Planner
Mr M Greenshields, Senior Roads Officer
Mr J Allan, Planning Technician

Clerk:

Ms A Smith

Visitors Present:

Rev K Martin, Mr D Hardie, Mr G Robb, Mrs F Cottrell, Mr A Beck

Apologies:

Councillor K McLeod

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 27 MARCH 2018

The minutes of the meeting of the Planning Committee of 27 March 2018 were approved.

2. PLANNING APPLICATION NO. 18/00145/P: ALTERATIONS, EXTENSION AND CHANGE OF USE OF STABLE BLOCK AND EXTENSION TO HOUSE FOR SHORT TERM HOSPITALITY, SUPPORT AND TRAINING FOR LEADERS IN CHURCH MINISTRY AND FOR THE USE FOR OCCASIONAL SMALL SCALE RETREATS (CLASS 8 USE) AT MANSEFIELD, HUMBIE

A report was submitted in relation to Planning Application No. 18/00145/P. Emma Taylor, Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Ms Taylor and Iain McFarlane, Service Manager – Planning, responded to questions. Ms Taylor explained why the extension was deemed class 8 use but the house was not classed as such. Mr McFarlane said there were often cases where there was a degree of ancillary use, providing several examples. Ms Taylor clarified that a design and access statement had not been required. In relation to Policy DC1, Ms Taylor advised that in terms of other business use the type of business and character of the building were both looked at. Mr McFarlane, responding to questions about adherence to the conditions, advised that if there were reports of unlawful or inappropriate use enforcement action would be taken, if required. As regards other aspects of consent that may be required, such as health and safety measures, Ms Taylor stated that other regulatory bodies dealt with these aspects. Regarding the septic tank, she clarified that there was no proposal within the application for a new tank; she understood that the existing tank might be replaced with a larger one if required.

Karl Martin, the applicant, informed Members that it was not the intention to undermine the peace, tranquillity and beauty of the area; there was no intention to cause any damage to the area. The retreat would provide a place for rest, to help people who helped others, in a beautiful, calm location. There would only be occasional retreats. He stated that the retreat proposal would not involve work with children or vulnerable adults.

Reverend Martin responded to questions, providing further details regarding capacity for, and frequency of, retreats. He clarified that a fund owned the house and would be paying for the required works. Guests would not be required to pay for their stay at Mansfield. Regarding parking, he stated that five spaces would be made available just before the stable block. He advised that the network of churches involved was significant. He reiterated that the intention was to preserve the peace, tranquillity and beauty of the area.

Donald Hardie, a long-term resident of Humbie and session clerk for many years, spoke against the application. There was great concern that if this application was approved the work carried out would only be the beginning of something larger. The peace and tranquillity of the area would be disturbed. He also expressed concerns about the additional traffic generated by the retreat; the road was not suitable, there was a blind corner and increased levels of traffic could lead to potential accidents. He urged refusal of this application.

Gavin Robb, a local resident, spoke against the application. He expressed concern about the vague nature of the application stating there was a lack of detailed documents and a business plan. He reiterated concerns, if the application was approved, about future use and further development. He informed Members that the registered owner was actually Mansfield Estates, based in the USA. He highlighted several traffic concerns. The access road and junction were unsuitable; the road was a single lane with a very dangerous bend. He stated that a transport assessment should be undertaken.

Frances Cottrell of Kirkbridge Cottage, situated below the manse, spoke against the application. She stressed that conservation of this very special corner of East Lothian for future generations was crucial. Class 8 use threatened the very essence of Humbie. This area was precious, it was a place of escape; this proposal threatened its tranquillity. There was a duty to protect places of natural beauty, to respect and protect nature.

Al Beck, spoke against the application on behalf of Humbie, East and West Saltoun and Bolton Community Council. He referred to the public meeting last November and to the reasons set out then for the community council's position. He stated that if class 8 use were to be granted, there was no effective method of control. The conditions attached to the grant of consent did not allay local concerns. He raised issues around Care Inspectorate principals. There was no definition of 'short term hospitality'; there was no quantification of 'occasional small scale retreats'. No effective limits could be placed on the scale and frequency of use. He also expressed concerns about the road and junction, which were inadequate for the increased traffic. This application should be rejected.

Mr Beck responded to questions from Members regarding his comments about involvement of the Care Inspectorate.

Prior to commencement of the debate the Convener stated that many of the issues raised by objectors were not planning issues; the application should be determined solely on planning grounds.

Local Member Councillor McMillan referred to the points put across by the objectors, which he felt were reasonable. This was a highly contentious application. He referred to comments about preserving the peace, tranquillity and beauty of the area. He felt that this application did not meet Policy DC1 as regards other business use criteria. He did not agree with the officer's recommendation and therefore would not be supporting the application.

Local Member Councillor Small noted and respected the local concerns. He acknowledged both sides of the argument; this area was stunning, it was an excellent place for a retreat but equally an excellent place to live. Given the whole sensitivity of the area and the potential for disruption, he would not be supporting the report recommendation.

Councillor Currie stated there were no planning grounds for refusal of this application. He added that the Committee had to make a decision based on the application as presented, not on something that may happen in the future. He would be supporting the officer's recommendation.

Councillor Kempson indicated she had two main areas of concern, parking and sewage disposal. She would not be supporting the report recommendation.

Councillor Findlay agreed with Councillor McMillan; he also felt that the application did not satisfy Policy DC1. He would not be supporting the recommendation in the report.

Councillor McGinn indicated that he had some transport concerns but felt that Condition 3 would address these. He would be supporting the officer's recommendation.

The Convener ended the discussion. He acknowledged the strong feelings expressed against this application but stressed that Members of the Planning Committee had to make a decision based only on the planning merits of the application. There were no planning grounds for refusal. He would be supporting the report recommendation.

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

For: 6
Against: 5
Abstentions: 0

Decision

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

- 1 The Class 8 use of the site hereby approved shall only be that as a centre for short term hospitality, support and training and occasional small scale retreat and of no other use of Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

Reason:
In the interests of safeguarding the amenity of the area.

- 2 Prior to the commencement of development details of the external finishes of the extensions hereby approved shall be submitted to and approved by the Planning Authority. The external finishes used shall accord with the details so approved unless agreed in writing by the Planning Authority..

Reason:
To safeguard the character and appearance of the buildings and the landscape character of the area.

- 3 Prior to the operation of the property as a centre for short term hospitality, support and training and occasional small scale retreat a Travel Plan shall be submitted to and approved by the Planning Authority. The Travel Plan shall include details of (i) measures to encourage visitors to car share and (ii) outline how vehicles arriving and leaving events at Mansefield shall be managed to avoid coinciding with traffic generated by events at Humble Church. Once the short term hospitality, support and training centre and occasional small scale retreats centre is operational the measures within the Travel Plan shall be implemented unless otherwise approved by the Planning Authority

Reason:
In the interests of road safety.

- 4 The short term hospitality, support, training and retreat centre hereby approved shall only be operated by a person or persons who also occupy the residential property of Mansefield unless otherwise approved in writing by the Planning Authority.

Reason:
To safeguard the residential amenity of the occupants of Mansefield.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee
MEETING DATE: Tuesday 5 June 2018
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

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Application No. **17/00917/PPM**

Proposal Planning permission in principle for residential development with associated infrastructure, landscaping and engineering works

Location **North East Of Cowpits Road
Whitecraig
East Lothian**

Applicant Wallace Land Investments

Per Geddes Consulting

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

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.

As a statutory requirement of major development type proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 16/00007/PAN) and thus of community consultation prior to this application for planning permission in principle being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that 30 people attended the two pre-application public exhibitions, which were held at the Mercat Bar and Grill on the 14th April 2016 and the 7th September 2017, and that 6 feedback forms were completed. The attendees of the pre-application public exhibition raised a number of issues regarding the proposals. The development for which planning permission in principle is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

This application relates to some 11.40 hectares of agricultural land located to the northwest of Whitecraig. It has a largely rectangular shaped footprint and forms the southern part of a larger field. The site is within the Edinburgh Greenbelt.

The site is bounded to the west by Cowpits Road, to the north and east by the remainder of the agricultural field and to the south by the village of Whitecraig.

In part of the field to the north is the Monktonhall Junction, Neolithic cursus Schedule Monument. The site is also with the Battle of Pinkie Battlefield Site. To the west side of the site, on the opposite side of Cowpits Road is the eastern boundary of the Dalkeith House Garden and Designed Landscape.

Planning permission in principle is sought for residential development of the application site to include some 250 homes, a Sustainable Urban Drainage System (SUDS), open space and play area, and for associated infrastructure.

An 'Illustrative Masterplan' plan has been submitted with the application indicating how these uses could be accommodated on the application site. It is indicated that residential development could take place over the majority of the site with areas of public open space and a play area located within those residential areas. Two areas within the site have been identified for affordable housing. It is also indicated that two SUDS basin could be accommodated within the site – one on the north eastern part of the site and one on the north western part - with landscaped areas around them and further wooded, landscaped areas could be accommodated along the northern and eastern boundaries of the site.

No illustrative drawings have been submitted with the application to indicate the design of any of the residential units.

The 'Illustrative Masterplan' proposes that access to the development would be taken from two vehicular access – one to be created on Cowpits Road and one to be created on Whitecraig road, beyond the eastern edge of the village.

The application is supported by, amongst other things, a Pre-application Consultation Report, a Planning Statement, a Landscape and Visual Impact Assessment, an Assessment of the Housing Land Supply, a Design Statement, a Statement of Site Effectiveness, a Sustainability Statement, a Transport Assessment, An Engineering Assessment and Drainage Strategy Report and Green Belt Assessment.

The planning statement submitted with this application provides background details on the proposals and sets out the key reasons why the applicant considers that planning permission in principle should be granted. It declares that the adopted East Lothian Local Plan is out of date as the Council is not maintaining a five year effective housing land supply and the development plan is nine years old. It declares that the application site is identified as an allocation for residential development in the Proposed East Lothian Local Development Plan and is therefore a significant consideration in the determination of this application. The application seeks consent for around 250 homes, which is 50 more than the allocation identified in the Proposed LDP. The planning statements contends that given the shortfall in the five year effective housing land supply there is still a requirement for additional homes to come forward including increasing the capacity of sites. The supporting statement asserts that The Design Statement and Transport Assessment submitted in support of the application demonstrates that the allocated site has capacity to accommodate the additional 50 homes whilst meeting the Council's design requirements. It also asserts that whilst the site boundary varies slightly to that identified in the Proposed LDP, the minor extension to the eastern boundary is

required to comply with the Draft Development Brief and deliver a viable and safe access arrangement. No built development, other than the access road is proposed within this area and therefore does not impact on the objectives of the Edinburgh Green Belt.

The application site has been included as a site within the Proposed East Lothian Local Development Plan (PELLDP) as part of the local development plan process. The Proposed Local Development Plan allocates the site for residential development of up to 200 units. Having been through the examination stage of the local development plan process and with no proposed modifications to the site being suggested by the Reporter, the LDP is a material consideration in the determination of this application.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 9th May 2016 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that a residential development of the scale proposed is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission in principle. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed residential development to be the subject of an EIA.

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

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

Policies 5 (Housing Land) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), DC2 (Development in the Edinburgh Greenbelt), DP1 (Landscape and Streetscape Character), DP17 (Art Works-Percent for Art), DP20 (Pedestrians and Cyclists), ENV7 (Scheduled Monuments and Archaeological Sites), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

The proposed East Lothian Local Development Plan (PELLDP) was submitted to Scottish Ministers for examination in 2017 and the Reporters' Examination Report was issued on 14 March 2018. The PELLDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications. Proposal MH15: Whitecraig North relates to the land of this application site. Relevant policies DC1 (Rural Diversification), DC7 (Development in the Edinburgh Green Belt), CH4 (Scheduled Monuments and Archaeological Sites), CH5 (Battlefields) RCA1 (Residential Character and Amenity), T1 (Development Location and Accessibility), DP1 (Landscape Character), DP2 (Design), DP4 (Major Development Sites) DP8 (Design Standards for New Housing Areas), DP9 (Development Briefs) OS3 (Minimum Open Space Standard for New General Needs Housing), OS4 (Play Space Provision in new General

Needs Housing Development), T1 Development Location and Accessibility, T2 (General Transport Impact) of the PELLDP do not represent any significant alteration to the current relevant policies.

Also material to the determination of the application is Scottish Planning Policy: June 2014.

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

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

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

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

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

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

A total of 5 written representations have been received in respect of this application all of which make objection to the principle of the proposed development.

A copy of each written representation 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:

* Prematurity – The planning application is premature in that the reporter has not yet reported on the Proposed Local Development Plan;

- * the granting of planning permission would have an impact on the primary education capacity as it would be predetermining the allocation at both Whitecraig South and Whitecraig North;
- * No necessity to develop an inferior site – the site was not a preferred site in the Main Issues Report (MIR) and was added to make up the numbers after other sites were discounted by local members;
- * Lack of integration with the existing settlement and makes no contribution to the existing settlement. Whitecraig is an area experiencing deprivation and needs regeneration. The lack of integration will reinforce social divisions;
- * loss of privacy to neighbouring residential properties;
- * there was inadequate advertising of the community consultation event;
- * there were no details of the visual appearance of the development;
- * the development plan gives no details of the environmental impact of the development;
- * The area already experiences the traffic impact from neighbouring housing developments and the village is not currently planned for traffic generation and road safety of the volume of traffic that will be created from the 200 houses over an eight year period – this time scale should be shortened;
- * noise and smell from industrial vehicles;
- * vibrations during the construction period will cause disruption to the quality of the existing water and drainage network which will cause stress and inconvenience to existing residents;
- * building on Green Belt land will undermine the Green Belt and harm Green Belt objectives and the character of the wider area;
- * the site is a haven and refuge for wildlife including some protected species.
- * the development will increase traffic flows and add to the existing problems of traffic flow through Musselburgh;
- * The increased traffic may impact on the conservation area of Inveresk and damage the fragile nature of many listed buildings abutting the road;
- * The proposed development will impact harmfully on the local transport network;
- * financial contributions should protect the future of the primary school create business units to develop the village economy;;
- * Site boundary not consistent with the Proposed Plan – the footprint is larger;
- * The proposed development would have a harmful impact on neighbouring residential properties in terms of noise, disturbance and loss of privacy;
- * impact on the local infrastructure and services which area already under pressure;
- * Whitecraig Primary School is located at the extreme southwest side of the village.

Access to the school from the development will be across a busy road. This is also currently the only local public space with recreation and play facilities in Whitecraig. New development should be focused at this side of the village where it would bring the school and play facilities into the heart of the village;

Whitecraig Community Council made no comments on the application.

The advertisement of the public meeting relating to the Proposal of Application Notice was carried out in accordance with statutory requirements.

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

The adopted Local Plan does not allocate the land of the application site for residential or business development.

On 6 September 2016 the Council approved its Proposed Local Development Plan. It sets out a development strategy for the future of East Lothian to 2024 and beyond, as well as a detailed policy framework for guiding development. The Proposed Local Development Plan sets out the Council's settled view of where new development should and should not occur, including housing, education, economic and retail development, new transport links, and other infrastructure. It sets out a generous housing land supply to meet the requirements of Scottish Planning Policy and SESplan. The Schedule 4 responses to comments on the plan during its period of representation were approved by Council at its meeting of 28 March 2017 and were submitted, together with the plan, for Examination. The examination report was published on the 14th March 2018 and did not propose any modifications to this site of Whitecraig North.

For the avoidance of doubt the application site the subject of this application is a proposed housing allocation of the Proposed Local Development Plan and thus the Council recognises its potential for residential development for up to 200 houses. In being a site of the Proposed Local Development Plan the application site is an integral part of the group of sites which the Council's settled view recognises as having the potential to meet, cumulatively, the SPP and SESplan requirements of an effective five year housing land supply. The proposed allocation of the site will, on adoption of the LDP, have the effect of removing the site from the Edinburgh Green Belt.

The Indicative Development Framework submitted with the application indicates that the northern and eastern boundaries of the site would be enclosed with varied landscaping combining woodland, hedgerows and open space to create a robust Green Belt Boundary line. The Indicative Development Framework also proposes that that western boundary which would be adjacent to the Dalkeith House Garden and Designed Landscape would be sensitively treated with a combination of stone walls and trees to present a welcoming entrance to the proposal from the west.

In this case the proposal is for a residential development of up to 250 new houses. The spatial strategy for East Lothian, which is set out in the Proposed Local Development Plan, is based on a compact strategy, which focuses the majority of new housing development in the west of East Lothian. The application site is within the western part of East Lothian and does therefore form a key component of the compact strategy. Individually and cumulatively with other new housing development, the proposed development is not in a location and of a scale so substantial and of such a cumulative

impact that it could be considered that granting planning permission in principle would undermine the plan-making process by predetermining decisions about the scale and location of new development that are central to the emerging plan.

The application site is bounded to the west by Cowpits Road and to the south by the northern edge of the settlement of Whitecraig. These are robust and defensible boundaries which serve to contain the proposed development along those boundaries. The north and eastern boundaries of the application site are not presently enclosed.

If planning permission in principle were to be granted, the details of street layout, of up to 250 residential units and the siting, design and external appearance of the proposed homes, the landscaping and means of access to the proposed development and the associated sports pitch would require the subsequent approval of the Planning Authority. Through the subsequent determination of such details in relation to Scottish Government Policy of Designing Streets and the Council's Urban Design Standards for New Housing Areas, and the Council's policies and practices in respect of residential amenity, planning control would be exercised to ensure that the built form of the development would be fully acceptable, with due regard to the need to safeguard the character and appearance of the site and of the area.

With careful attention to the detailed design of it, it should be possible for the proposed development to avoid any harmful impact on the privacy or amenity of existing residential properties. Future occupants would also benefit from a satisfactory degree of privacy and amenity.

The Council's Landscape Projects Officer advises the proposed indicative layout generally complies with the LDP design brief for the application site. However, further information is required on the location and positioning of development in relation to existing trees within the site and in particular to the trees that are in the South East corner of the site.

In respect of the indicative layout and density as proposed, the Council's Principal Amenity Officer is satisfied in principle with the quantity of open space that is proposed. He is also satisfied with the proposed equipped play area that is to be formed in the northeast part of the site.

He further recommends that based on the now proposed 250 units a developer contribution of £1154.55 per house is required to contribute to a new sports pitch facility at Whitecraig. This can be secured through a Section 75 legal agreement.

On these considerations of open space and recreation provision, the principle of the proposed housing development is consistent with Policies C1 and C2 of the adopted East Lothian Local Plan 2008.

The manager for the East Lothian Health and Social Care Partnership does not object to the application. He advises that increasing the size of a previously agreed site by 25% does put extra pressure on GP services that has not been planned for within the LDP. However, he confirms that there is capacity in Musselburgh for the extra patients in Whitecraig.

The Council's Environmental Health Manager raises no objection to the proposals, satisfied they would not result in harm to the amenity of any neighbouring land use. He recommends that principles of good practice described in the Environmental Protection Scotland/Royal Town Planning Institute Scotland guidance document "Delivering Cleaner Air for Scotland, January 2017" be incorporated into the design.

The Council's Archaeology Officer advises that the site is in an area of known archaeological potential with scheduled monuments immediately adjacent it, particularly from the prehistoric and Roman periods. The site also lies within the designated battlefield for Pinkie Cleugh. Because of this the Archaeology Officer recommends that a programme of archaeological works be carried out prior to the commencement of development. This can be secured through a condition attached to a grant of planning permission in principle for the proposed development. This approach is consistent with Scottish Planning Policy: June 2014 and Planning Advice Note 2/2011: Planning and Archaeology.

Historic Environment Scotland has been consulted on the application and is content that the proposed development would not have an adverse impact on the setting of Monktonhall Junction, Neolithic cursus north of Whitecraig Scheduled Monument nor on the Battle of Pinkie Battlefield site.

On this consideration the proposed development complies with Policy ENV7 of the adopted East Lothian Local Plan 2008, The Scottish Historic Environment Policy Statement: June 2016 and Scottish Planning Policy: June 2014.

The Council's Roads Services advises that the proposed site is included within the proposed East Lothian Local Development Plan and was included within the East Lothian Council Transport Appraisal to determine the impacts on both the strategic and local road network. The model highlighted that the development of this site shall have a cumulative impact on the wider strategic road network however can be accommodated within the local road network in terms of road capacity. However, the site that was assessed was for 200 units.

The applicant is now proposing a 250 house development of the application site. A Transport Assessment has been submitted with the application to assess the transport impact of the additional 50 houses now proposed. Road Services agree with the findings of the assessment, which are that the 250 house development of this site shall have a cumulative impact on the wider strategic road network, however, with mitigation, it can be accommodated within the local road network in terms of road capacity. Consequently, The Council's Road Services require the following mitigating measures;

- 1) A scheme of works to provide a controlled pedestrian/cycle crossing of the A6094 near NCR1 at a location to be agreed with East Lothian Council;
- 2) A scheme of works and associated measures on Cowpits Road to the north of the proposed development access to control vehicle speeds. The proposed measures shall be submitted to the Council for approval and will include a reduced speed limit on Cowpits Road, provision of pedestrian footway/footway widening, traffic calming and street lighting;
- 3) The provision of a 2.0m wide footpath on the east side of Cowpits Road from the proposed site access, southwards to the existing pedestrian footway. Where the existing footway on Cowpits Road is less than 2.0m wide, the footway shall be increased to 2.0m in width;
- 4) The provision of a footpath link of not less than 2.0m width on the north side of A6094 Whitecraig Road between the proposed site access junction and the existing residential properties (no 2 Whitecraig Road westwards) and the footpath shall have adequate width for cyclists and bus shelters.
- 5) If provision (of) a footpath link from the site to Whitecraig Road that adjoins the south side of the site is possible, the said footpath link shall be included in the scheme of landscaping. If such provision is not possible, the scheme shall nevertheless be designed so as to facilitate provision of such a link at a future date should circumstances change.

- 6) Street lighting shall be provided over the full extent of the proposed 30 mph speed limit on the A6094 and Cowpits Road from the existing lighting on both roads to a point beyond both proposed site access junctions.
- 7) The existing 30 miles per hour speed limit be extended to Shire Mill/Fernilea approximately 700 metres north of the junction of Cowpits Road and the A6094.
- 8) a visibility splay of 4.5m by 70m can be achieved and maintained on each side of the proposed new access junctions from the site onto the A6094 Whitecraig Road and onto Cowpits Road and that no obstruction to visibility above a height of 1.05m measured from the carriageway will be within it.
- 9) A Safety Audit, Quality Audit including swept path assessments for refuse collection and fire appliance access.

With the use of conditions to secure the recommendations of Roads Services, the principles of the proposed development of the site for residential use comply with Policies DP20, T1 and T2 of the adopted East Lothian Local Plan 2008.

The Council's Transport Appraisal (TA) provides the evidence base which has informed the Council's draft Developer Contributions Framework (DCF) and has been produced in conjunction with the Local Development Plan TA so that Road Services can assess the cumulative impacts of the Local Development Plan allocations on the Transport Network. The TA has identified a number of hot spots on the network which require interventions to mitigate the impact of the Local Development Plan allocations and the site was included within the East Lothian Council Transport Appraisal setting out the appropriate contribution levels for each of the Local Development Plan sites.

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

- * improvements to Old Craighall junction - £16,395;
- * improvements to Salters Road Interchange - £69,530;
- * improvement to Bankton Interchange – £10,220;
- * improvements to the rail network - £24,197.50;
- * Musselburgh town centre improvements - £5,780;
- * Tranent town centre improvements – £9,980.

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £136,102.50. These can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding transportation interventions to increase capacity in the road and rail network.

The Service Manager for Waste Services raises no objections to the proposed development provided a swept path analysis is submitted with any approval of matters application that demonstrates that the site can be safely accessed and egressed by waste service vehicles. This can be made a condition of a grant of planning permission in principle.

The Council's Biodiversity Officer raises no objection to the proposal. He advises that the site is within an open arable field which has been agriculturally modified. The ecological assessment did not identify the presence of any sensitive habitats or protected species on the site. The site is immediately to the east of Dalkeith Estate part of which has been designated as a Site of Special Scientific interest. There are opportunities for biodiversity improvement and he recommends native species planting to facilitate this.

The Scottish Environment Protection Agency (SEPA) had initially objected to the proposed development on the grounds of potential flood risk. The Flood Risk Assessment previously submitted indicated that, although not within the application site boundary, there is a flow path from a surcharging manhole along part of the western boundary of the site, which is deemed as a functional floodplain. A safe, flood free access/egress is required that must demonstrate that safe, flood free access/egress can be achieved from the site. In response an updated masterplan was submitted that shows that the development has been moved outwith the flood risk area, with homes in the southwest corner of the site set back from Cowpits Road to ensure they are outwith the wayleaves area for the combined storm overflow. Therefore and provided a condition is attached to any grant of planning permission in principle to ensure that prior to the occupation of the first dwelling an existing manhole located at the roundabout on Whitecraig Road is sealed, then SEPA is content to withdraw their objection to the application.

The Council's Manager - Structures, Flooding and Street Lighting does not object to the proposed sealing of the manhole in the manner proposed. He further advises that the proposed method of surface water drainage system including attenuation has been designed to accommodate a 1 in 200 year flood return period, as required by SPP, and is therefore acceptable.

Scottish Water has raised no objections to the application confirming that in respect of water the development will be fed from the Rosebery Water Treatment Works. With regards the foul drainage, Scottish Water confirms that there is sufficient capacity in the Edinburgh PFI Waste Water Treatment Works.

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

The Council's Depute Chief Executive (Resources and People Services) informs that the application site is located within the school catchment areas of Whitecraig Primary School and Musselburgh High School.

He advises that Whitecraig Primary School and Musselburgh High School do not have sufficient capacity to accommodate children that could arise from the proposed development. Thus he objects to the application on the grounds of lack of permanent capacity at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of £2,079,250 towards the provision of additional school accommodation at Whitecraig Primary School, £59,250 for campus land for the new Musselburgh Secondary School and £1,014,250 towards the capital costs of new Musselburgh Secondary school. A further contribution is required towards the purchase costs of campus land necessary for the expansion of Whitecraig Primary, the value of which will be based on a District Valuer valuation of land, proportional to the contribution of the number of planned units from Whitecraig North within the Whitecraig Primary catchment (250 of 600).

The required payment of a financial contribution of a total of £3,152,750 towards the provision of additional accommodation at Whitecraig Primary School, Whitecraig campus land (value to be determined) and for secondary provision (Musselburgh Secondary Campus Land Contribution and Musselburgh Secondary Capital Contribution) can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding necessary school capacity.

In accordance with Policy H4 of the adopted East Lothian Local Plan 2008 a grant of planning permission in principle would require to be subject to provision of 25% of all housing units to be developed as affordable housing. They should be provided on site or if it can be demonstrated to the Council that this, or the off-site provision of the required affordable units is not practicable, a commuted sum payment should be made to the Council in lieu of such an on or off-site provision. In this instance two separate areas within the site have been identified for the provision of affordable housing units. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant confirms they are willing to do, the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

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

As parts of the application site are within a Coal Mining Development Referral Area the Coal Authority has been consulted on the application. The applicant's agent has submitted a Coal Mining Risk Assessment Report which is contained within the Stage 1 Desk Study (Job no. 11/083, 24 January 2012) which has been submitted as part of this planning application. The Coal Authority advise that the submitted report correctly identifies an on-site mine entry and other coal mining activity, recorded to have taken place beneath the application site and thus the report recommends intrusive site investigation works be undertaken to confirm coal mining conditions and to enable the implementation of any necessary mitigation measures prior to commencement of the development.

The Coal Authority recommends that should planning permission in principle be granted that the intrusive investigation works recommended within the Coal Mining Risk Assessment be undertaken prior to the commencement of development and that in the event that the site investigations confirm the need for remedial works to treat any areas of shallow mine workings, 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. This can be required by a condition of a grant of planning permission in principle.

RECOMMENDATION

It is recommended that planning permission in principle be granted subject to:

1. The undernoted conditions.

2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:

(i) a financial contribution to the Council of £3,152,750 for education contributions - £2079,250 (£8317 per residential unit) towards the provision of additional capacity at Whitecraig Primary School, £59250 (£237 per dwelling) towards the cost of campus land for the new Musselburgh Secondary School and £1014250 (£4057 per dwelling) contribution towards the capital costs for the new Musselburgh Secondary School;

(ii) a financial contribution to the Council for campus land for Whitecraig Primary school. This contribution will be based on the value of the land as assessed by the District Valuer for the 250 units (or the number of units built) as a proportion of the 600 residential units to be built within the Whitecraig primary school catchment area;

(iii) a financial contribution to the Council of £288,637.50 (£1154.55 per dwelling) towards the provision of a new sports pitch facility at Whitecraig;

(iv) a financial contribution to the Council of £136,102.50 for transport improvements - £96,145 for road improvements to Old Cragihall Junction, Salters Road Interchange and Bankton Interchange, £24,197.50 for rail improvements, £5,780 for Musselburgh town centre improvements and £9,980 for Tranent Town Centre improvements.

(v) provision of 25% of the final approved number of residential units within the application site as affordable residential units or if it can be demonstrated to the Council that this, or the off-site provision of 25% of the final approved number of residential units as affordable units is not practicable, to secure from the applicant a commuted sum payment to the Council in lieu of such an on or off-site provision.

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of transport contributions to fund road network improvement, lack of sufficient school capacity at Whitecraig Primary School and Musselburgh High School, the lack of provision of affordable housing and the lack of sports provision contrary to, as applicable, Policies INF3, H4 and C2 of the adopted East Lothian Local Plan 2008.

CONDITIONS

- 1 The submission for approval of matters specified in conditions of this grant of planning permission in principle in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) shall include details of the siting, design and external appearance of the residential units, the means of access to them, the means of any enclosure of the boundaries of the site, the landscaping of the site and any associated infrastructure. Those details shall generally comply with the Indicative Masterplan docketed to this planning permission in principle, but additionally shall comply with the following design requirements:

- a. The residential units shall be no higher than two storeys in height and the external finish to their walls shall be predominantly rendered and coloured in accordance with a co-ordinated colour scheme that respects the layout of the development;
- b. Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street;
- c. There shall be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary street frontage;
- d. The detailed design of the layout shall otherwise accord with the principles set out in the Council's Design Standards for New Housing Areas and with Designing Streets; off street parking for the residential unites must be predominantly behind or to the side of buildings unless it can be justified as an exceptional design feature;
- e. Notwithstanding that shown in the Indicative Masterplan docketed to this planning permission in principle, there shall be at least a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing or proposed neighbouring residential properties;
- f. parking for the residential development hereby approved shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads- Part 5 Parking Standards;
- g. all access roads shall conform to East Lothian Council Standards for Development Roads and Design Standards for New Housing Areas in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming measures;
- h. driveways shall have minimum dimensions of 6 metres by 2.5 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 metres length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;
- i. within residential private parking areas the minimum dimensions of a single parking space shall be 2.5 metres by 5.0 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;
- j. vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;
- k. cycle parking be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed;

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment and in the interests of road safety.

- 2 No more than 250 residential units are approved by this grant of planning permission in principle. Unless otherwise agreed in writing with the Planning Authority, housing completions on the application site in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion rates:

Year 2018/2019 - 24 residential units
 Year 2019/2020 - 24 residential units
 Year 2020/2021 - 54 residential units
 Year 2021/2022 - 24 residential units
 Year 2022/2023 - 57 residential units
 Year 2023/2024 - 24 residential units
 Year 2024/2025 - 24 residential units
 Year 2025/2026 - 19 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 2025/2026 or beyond and not added to the subsequent Year.

Reason:

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

- 3 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall be generally based on the landscape proposals shown in principle on the docketed Indicative Masterplan.

It shall also provide details of: the height and slopes of any mounding on or recontouring of, the site including any SUDS pond formation with existing and proposed levels; new tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting, which shall include a hedgerow along the full length of the southern boundary of the site, a native mixed woodland along the full length of the western boundary of the site, groups of trees and woodlands on the southerly located areas of open space, large species trees within open spaces throughout the site, and feature trees and landscaping on the eastern road frontage of the site. The scheme shall also include a full arboricultural assessment of all existing trees and hedgerows on and adjacent to the application site in accordance with BS5837:2012 'Trees in relation to design, demolition and construction' to include a tree survey and tree constraints plan, details of any trees to be retained, and measures for their protection in the course of development. It shall be insured that no garden ground extends within the root protection area of existing trees to be retained. The scheme shall also include a maintenance plan for the management of the scheme of landscaping.

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

Reason:

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

- 4 A visibility splay of 4.5 metres by 70 metres shall be provided and maintained on each side of each of the proposed access junctions on the A6094 and on Cowpits Road from the application site such that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway level within the area defined below:-

- a) A line 4.5 metres long measured along the access road from the nearside edge of the main road carriageway.
- b) A line 70 metres long measured along the nearside edge of the main road carriageway from the centre of the access road in both directions.
- c) A straight line joining the termination of the above two lines.

Reason:

To ensure that adequate visibility is provided at the access in the interest of highway safety.

- 5 Prior to the commencement of development wheel washing facilities must be provided and maintained in working order during the period of construction of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Reason:

In the interests of road safety.

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

Reason:

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

- 7 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to

control construction traffic and shall include hours of construction work and details of wheel washing facilities to be provided. Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Reason:

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

- 8 The discharge of surface water from the application site shall be treated in accordance with the principles of the SUDS Manual (C697), which was published by CIRIA in March 2007.

Details of the proposed integrated sustainable urban drainage scheme (SUDS) for the application site shall be submitted to and approved in writing by the Planning Authority following consultation with Scottish Water.

The integrated sustainable urban drainage scheme (SUDS) for the application site shall thereafter be fully implemented in accordance with the details so approved.

Reason:

To ensure the provision of a satisfactory sustainable urban drainage scheme for the application site.

- 9 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.

- 10 Prior to the occupation of any of the residential units hereby approved all roads and footpaths, including external footpaths as required shall be completed and brought into use in accordance with a phasing of them as agreed with the Roads Authority and which shall include:

1) a scheme of works to provide a controlled pedestrian/cycle crossing of the A6094 near NCR1 at a location to be agreed with East Lothian Council;

2) a scheme of works and associated measures on Cowpits Road to the north of the proposed new junction to control vehicle speeds. The proposed measures shall be submitted to the Council for approval and shall include a reduced speed limit with the relocation of the existing 30 miles per hour speed limit some 700m north of the proposed new junction onto Cowpits Road, the provision of a pedestrian footway/footway widening, traffic calming and street lighting;

3) Provision of a 2.0m wide footpath on the east side of Cowpits Road from the proposed site access, southwards to the existing pedestrian footway. Where the existing footway on Cowpits Road is less than 2.0m wide, the footway shall be increased to 2.0m in width;

4) Provision of a footpath link of not less than 2.0m width on the north side of Whitecraig Road between the proposed site access junction and the existing residential properties (no 2 Whitecraig Road) and the footpath shall have adequate width for cyclists and bus shelters.

5) If provision (of) a footpath link from the site to Whitecraig Road that adjoins the south side of the site is possible, the said footpath link shall be included in the scheme of landscaping. If such provision is not possible, the scheme shall nevertheless be designed so as to facilitate provision of such a link at a future date should circumstances change.

6) Street lighting shall be provided over the full extent of the proposed 30 mph speed limit on the A6094 and Cowpits Road from the existing lighting on both roads to a point beyond both proposed site access junctions.

Reason:

In the interests of road safety.

- 11 Prior to the commencement of development a scheme of intrusive investigation works in accordance with the Coal Mining Risk Assessment shall be submitted to and approved in writing by the Planning Authority in conjunction with the Coal Authority. In the event that the site investigations confirm the need for remedial works to treat any areas of shallow mine workings, 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.

Reason:

To ensure that the site is clear of coal mining features and hazards prior to the occupation of any of the buildings.

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

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 13 Prior to the occupation of the first dwelling, the existing manhole cover identified as 5 on submitted drawing East of Scotland Water - Project Ref: Lothians (WHITECRAIG. PDF) shall be replaced with a sealed manhole in accordance with the details approved by East Lothian Council and SEPA."

Reason

To protect the development from flooding.

- 14 Prior to the commencement of development, a vehicle tracking/swept path analysis for all internal roads and changes to external roads shall be submitted to and approved by the Planning Authority. The vehicle tracking/swept path analysis shall include for 10 metres long vehicles and refuse vehicles.

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

Reason:

In the interests of road safety.

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 5 June 2018
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

3

Note - this application was called off the Scheme of Delegation List by Councillor Williamson for the following reason: the application proposes a major change of use for the existing facility which would result in the loss of a leisure/restaurant and functions venue. Given (a) the strategic location of the building at Fisherrow Harbour where regeneration plans and action are well underway; and (b) the amount of local opposition voiced through representations made by local umbrella organisations on behalf of the many individual groups who have an interest in the harbour area and in encouraging visitors to the area and to Musselburgh in general, I feel that the Planning Committee should be given the opportunity to consider the application.

Application No. **18/00205/P**

Proposal Alterations to and change of use of restaurant, gym, swimming pool facilities and function suites to nursing home and associated works

Location **Quayside
131 New Street
Musselburgh
East Lothian
EH21 6DH**

Applicant Simply Musselburgh Care Limited

Per Young and Gault Architects Ltd

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to the 'The Quay', a commercial complex comprising function suites, a bar and restaurant, a café and a fitness club, located beside Fisherrow Harbour, Musselburgh. The fitness club facilities include a swimming pool and a gym.

The Quay is bounded to the north by a public car park with the Promenade and Fisherrow Sands beyond, to the east by the access road to Musselburgh Harbour and Fisherrow Sands, with a public car park beyond, to the south by the public road of the western end of New street, with a fishmonger, petrol filling station and public open space beyond and to the west by flatted residential properties.

The buildings in the area are of a range of traditional and modern architectural styles and finishes and vary in building height from one to five storeys. The area includes residential

and business uses. The building containing the commercial complex of 'The Quay' is of a modern design. The building varies in height from one storey to three storeys. It has large feature windows on its north and south elevations. Its walls are finished with reconstituted stone and render. Its pitched roofs are clad with concrete roof tiles.

In December 2009, planning permission was granted (Ref: 09/00265/FUL) for alterations, extension and part change of use of the existing building to form 29 hotel bedrooms and a meeting room and associated works. Planning permission 09/00265/FUL has not been implemented and lapsed in December 2012.

Planning permission 16/00497/P was subsequently granted in November 2016 for the conversion of part of the Quay complex to form 29 hotel bedrooms. This planning permission has not been implemented and remains extant.

Planning permission is now sought for the alterations to and change of use of the Quay building to a nursing home and associated works.

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 (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV1 (Residential Character and Amenity), DP6 (Extensions and Alterations to Existing Buildings), C12 (Residential Care and Nursing Homes - Location) T1 (Development Location and Accessibility), T2 (General Transport Impact), DP20 (Pedestrians and Cyclists) and DP22 (Private Parking) of the adopted East Lothian Local Plan 2008.

The proposed East Lothian Local Development Plan (PELLDP) was submitted to Scottish Ministers for examination in 2017 and the Reporters' Examination Report was issued on 14 March 2018. The PELLDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications. Relevant Policies RCA1 (Residential Character and Amenity), DP5 (Extensions and Alterations to Existing Buildings), Policy HOU6 (Residential Care and Nursing Homes - Location) T1 (Development Location and Accessibility) and Policy T2 (General Transport Impact) of the PELLDP do not represent any significant alteration to the current relevant policies.

Five letters of objection to the application have been received. The main grounds of objection can be summarised as:

- (i) The proposal is inconsistent with the local initiative to improve the Fisherrow harbour and waterfront as a recreational area and would remove any opportunity to develop existing leisure facilities to enhance the opportunity to attract tourist and locals;
- (ii) The proposed change of use would be completely detrimental to the aim of the Musselburgh Area Plan of increasing investment in local infrastructure and facilities to enhance the unique features of this area;
- (iii) It does not support the Action Plan outlined by ELC which clearly states that it will develop a single East Lothian Tourism Implementation that will deliver towards East Lothian Economic Development Strategy;
- (iv) The leisure facilities are widely used by senior community members who will lose a vital recreational and social meeting point which supports their health and well-being;
- (v) There has been an increase in social and recreational events in the locality which add community value which does not appear to be conducive with the location of a care home

for residents who may be disrupted by such activity;

(vi) The waterfront is a key recreational asset and should be retained, ensuring development to attract tourism and visitors and benefit the local community;

(vii) The proposal contradicts the Fisherrow Waterfront Group's ambition for more activity in the area and further development of the harbour and waterfront area;

(viii) The proposed use will increase the demand for car parking and car access;

(ix) Not a safe place for elderly people, public safety issue given the building's proximity to Fisherrow Harbour which is a working harbour; and

(x) Loss of a disabled parking space within the existing car park outside the adjacent flats.

'The Quay' is in a predominantly residential area, as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. However the uses of 'The Quay' are authorised and the operation of them is well established relative to the other uses of the area, including the residential use of the flatted building to the west of 'The Quay'. Nonetheless, Policy ENV1 requires that within its area of coverage development incompatible with the residential character and amenity of the area will not be permitted. On this matter of policy the consideration in the determination of this application is whether or not the proposed change of use of 'The Quay' to a Nursing would have a harmful impact on the residential amenity of the area.

The proposed nursing home use would be a residential institution use additional to the predominantly residential use of the area. The nursing home use, although not a housing use, would be a residential institution use that, in principle is compatible with housing use. In principle the proposed development does not conflict with Policy ENV1 of the adopted East Lothian Local Plan 2008.

The proposed external alterations to the building to facilitate its change of use to a nursing home would consist of the formation of a number of new window openings, door openings, new panels in existing openings, a new vent and an extract fan. A total of eleven window openings and one door opening are proposed to be formed in the ground floor, along with two window openings on the upper floor, fifteen new Spandrel panels to match existing and a new vent and extract fan on the north elevation of the existing building are proposed, six new window openings and one door opening at ground floor level and eighteen new Spandrel panels to match existing are proposed on the south elevation of the existing building, three new Spandrel panels to match existing are proposed on the east elevation and two new window openings at ground floor level are proposed on the courtyard elevation.

Two garden areas are to be formed with shrubs and lawn areas one within a central location to the south of the existing building and one within the north-eastern corner of the application site. It is proposed to erect new 1m high decorative metal railings around the perimeter of these garden areas and to erect a 1.8m high timber fence along the north-eastern boundary. It is proposed that the existing 1.8m high timber fence along the north-western boundary of the application site be removed and replaced with a 1m high palisade fence.

These external alterations would not result in a change in the overall scale or massing of the building and the design and appearance would largely remain as existing. All facing materials involved in the external alterations would reflect those already used in the existing building. As such, by its design and finishes the proposal would be in keeping with the modern architectural form of the existing building and of the adjacent flatted building to the west of 'The Quay'. Overall the proposed alterations would be appropriate to the building and its surroundings and would not harm the character and appearance of the street scene of New Street.

The proposed alterations would not encroach onto Fisherrow Harbour, the waterfront, slipway or boatyard area to the north east of the application site and as such would not prejudice any future development of this area which if planning permission were required would stand to be determined on their own merits. The proposed change of use of the building to a nursing home would not have a detrimental impact on the attractiveness of the waterfront or harbour area to tourists.

The proposed alterations would not give rise to overlooking or loss of sunlight or daylight to any neighbouring residential property.

Policy C12 of the adopted East Lothian Local Plan 2008 states that developers of residential care homes and nursing homes are encouraged to choose sites within, or close to, existing settlements. Proposals must have reasonable access to the normal range of community services. The building of 'The Quay' occupies a central position within Musselburgh with local amenities nearby and given its location the proposed nursing home would be capable of being conveniently and safely accessed by public transport, on foot and by cycle, as well as by private vehicle. The development is therefore consistent with both Policy C12 and Policy T1 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Manager has no adverse comment to make on the application, being satisfied that the development would not have an adverse impact on any neighbouring land use and would provide the occupants of the proposed nursing home with an appropriate level of residential amenity.

The Council's Road Services advise that the use of the building as a nursing home with 40 beds would result in a reduction in parking demands from the building's current use. The proposal to add 2 disabled parking spaces near the main entrance is welcomed. They advise that the car park to the front of the adjacent flat block mentioned in a letter of representation to the planning application is private and is not maintained by East Lothian Council and as such likely to be owned/managed by the owners of the flats. Consequently, given the reduction in parking demands from the building's current use they raise no objection to the application, being satisfied that there is sufficient parking to serve the development. The development therefore complies with Policy T2 of the adopted East Lothian Local Plan 2008.

East Lothian Health and Social Care Partnership advise that with the construction of the Haddington care home and the continuing development of community support services for the elderly they are of the view that there is sufficient nursing home provision in East Lothian to meet the needs of older people. In addition, such a development would cause extra and unplanned demand on the Musselburgh GP Practices and the Care Home Team. For these reasons, the Health and Social Care Partnership does not support the application for the care home.

The need for or viability of the proposed nursing home use is a matter for the developer and is not a material consideration in the determination of this planning application, which requires to consider whether or not the proposed use of the building is appropriate. There is a private market for this type of provision outside of the NHS and it is for the developer to assess if that market would support the proposal.

In conclusion given all of the above the proposed scheme of development is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV1, DP6, C12, T1, T2, DP20 and DP22 of the adopted East Lothian Local Plan 2008.

CONDITION:

- 1 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and 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.

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 5 June 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 Goodfellow for the following reason: the applicant appears to have given reasonable locational and requirement justification for this application and I feel whether this application is justified should be decided by committee due to its potential economic importance.

Application No. **18/00396/P**
Proposal Erection of storage shed (Class 6)
Location **Land Adjacent To The Harbour
Victoria Road
North Berwick
East Lothian**
Applicant Mr Stirling Stewart
Per Somner Macdonald Architects
RECOMMENDATION Application Refused

PLANNING ASSESSMENT

The application site is situated in the western corner of the dinghy park, which is to the north east of North Berwick Harbour. The site is owned by the North Berwick Harbour Trust Association. The site is within a mixed use area as defined by Policy ENV2 (Town and Village Centres, Other Retail or Mixed Use Areas) of the adopted East Lothian Local Plan 2008. It is also within the North Berwick Conservation Area.

The application site is within an area of hardstanding in the western corner of the dinghy park, below the elevated walkway and to the north east of the harbour wall. Delineated boat parking bays are located next to the site, to the southeast. The shed would be parallel to these spaces. There is an area of open space under the walkway to the north, which was being used as boat storage at the time of the officer site visit. North Berwick harbour on the other side of the wall to the south is listed for its special architectural or historic interest (category B).

Planning permission is sought for the erection of a storage shed (class 6) on the application site. Amended plans have been submitted to show a reduced size of shed and to clarify its proposed position. The proposed shed would be 2.3 metres deep and 3

metres wide. It would have a mono-pitched roof with a highest point of 2.5 metres sloping down to just over 2 metres to the eaves on the rear elevation. It would be clad with vertical timber cladding which would be painted. No colour has been specified in the application. There would be a set of double doors on the front (southern) elevation that would be open out to approximately 1 metre from the shed elevation. The plans shows the shed positioned approximately 1.5 metres from the high-level walkway to the north and 0.5 metres from the harbour wall and elevated walkway to the west. The shed would be positioned approximately one metre from the delineated spaces of the dinghy park.

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 consists of the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policy 1B (The Spatial Strategy: Development Principles) and Policies ENV2 (Town and Village Centres, other Retail or Mixed Use Areas), ENV4 (Development within Conservation Areas) and DP16 (Flooding) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

The Proposed East Lothian Local Development Plan (PELLDP) has been submitted to Scottish Ministers for examination and the Reporters' Examination Report was issued on 14 March 2018. The East Lothian Local Development Plan is to be considered for approval by The Council on 29th May 2018. The LDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications. Policies EMP2 (Operational Harbours), CH1 (Conservation Areas) and NH11 (Flood Risk) 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 and the Scottish Government's policy on development within a conservation area 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 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.

Scottish Planning Policy is also material in considering the application in relation to areas of flood risk.

1 public representations to the application has been received from East Lothian Yacht Club (ELYC). They object to the application. The main points of the objection are summarised below:

* The site identified is within an area which dinghies and kayaks are parked. Any use of this land for a shed uses space that could be used for a water based sports activity;

- * It is strongly felt that this area should be kept for leisure craft supporting a healthy outdoor lifestyle;
- * Concerns over the increased congestion whilst trying to access dinghies and kayaks;
- * Concerns around what may be stored in the shed; and
- * If the shed is to serve the Lobster Shack, it is a circuitous route from shed to Shack and around the very busy corner at the foot of the steps to Elcho Green.

The Council's Roads Services raise no objection to the proposal, being satisfied that it would not result in a risk to road safety.

There are a number of other small buildings within the harbour and a shed of this scale and form would not appear incongruous. The shed would be viewed against the northern wall of the boat park area and would be visually screened from the Category B listed harbour by the harbour wall. The use of painted timber for the walls of the shed would be in keeping with the coastal character of the area and other similar buildings in the vicinity. Were planning permission to be granted, a condition could be imposed requiring a sample of the colour to be submitted for final approval to ensure that the colour is appropriate for the Conservation Area and does not have a detrimental impact on its character or the visual amenity of the area. Notwithstanding that, by its temporary form and construction, the shed would not be appropriate as a permanent feature. Consequently, were planning permission to be granted, a condition could be imposed to restrict the planning permission to a temporary period of time. Subject to this planning control, the shed would not have a detrimental impact on the character and appearance of the Conservation Area, or on the setting of the nearby listed harbour. On this consideration the proposal is consistent with Policy ENV4 of the adopted East Lothian Local Plan 2008.

The site is within an area at medium to high risk of coastal flooding as shown on SEPA's indicative flood maps. SEPA raises no objection to the proposal. They note that there is evidence of significant flooding of the area in 2010 and 2012 and that such events resulted in container units being washed away and potentially causing damage.

Paragraph 263 of Scottish Planning Policy states that within low to medium flood risk areas some development, such as some recreation and sport facilities, essential infrastructure and development in built up areas where there is flood protection measures in place may be suitable. It is stated that such areas are generally not suitable for 'additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons, e.g. for navigation and water-based recreation, agriculture, transport or utilities infrastructure...and an alternative, lower risk location is not available'. This is reiterated in Advice box 8 of the Proposed East Lothian Local Plan.

SEPA stresses that if the proposed location is deemed essential for the storage shed, they believe it would then fall within the exceptions for development which would be acceptable in such a flood risk area. They also note that the shed is a low vulnerability use. However, SEPA also notes that there is a clear flood risk to the harbour area and hence recommend an alternative location is found should the storage shed not be required to be located on the harbour for operational reasons.

Notwithstanding this advice, the Council's Structures, Flooding and Street Lighting Service raise no objection to the proposal. They note that after recent engineering works in the area it is hoped that the effects of wave overtopping and risk of flooding will be

reduced. Therefore, they have no objection to the positioning of the proposed shed. On the basis of this advice, it can be concluded that the proposed development would not be unacceptable on the grounds of flood risk.

The site is within a mixed used area defined by Policy ENV2 of the adopted East Lothian Local Plan 2008, in which uses appropriate to that area, including retail, leisure and entertainment, will be acceptable in principle. Proposals that would have a significant environmental impact will not be permitted.

The site is within the area defined as an operational harbour by Policy EMP2 of the Proposed East Lothian Local Plan. The Proposed Plan notes the mix of commercial and leisure uses within harbours and the positive contribution harbours make to the character of towns in which they are located. Policy EMP2 states that within harbours areas the Council will give preference to uses that relate to fishing or other industry connected with the harbour. The Council will consider other uses provided they do not prejudice these uses.

The use which is proposed by this application is a class 6 storage use which would not normally be suitable for a mixed use area unless there is an overriding operational justification for it.

The applicant has stated that the proposed shed is to store a walk-in fridge which would be used to store fresh produce. This would be used to serve the applicant's existing businesses, the Lobster Shack and The Rocketeer restaurant. They have stated that having the fridge at this location would reduce the number of trips needed to service their businesses. They have not demonstrated that other possible storage options have been considered. Both businesses currently operate without the proposed fridge and it has not been adequately demonstrated that it is required to be sited at the proposed location, rather than a more suitable site elsewhere. Without an operational requirement for it to be located within the dinghy park, the proposed development is contrary to Policy ENV2 of the adopted East Lothian Local Plan 2008.

The shed would be close to the existing dingy parking area and open storage within the elevated walkway wall. Although the applicant has stated that the shed would be outwith the delineated dinghy parking spaces, it would be very close to the northernmost space. When the doors were opened on the south elevation of the proposed shed they would meet the line of the delineated space. There would be little to no room between the open doors and any boat parked in this space and no room to manoeuvre around the space if the doors were open. This would result in potential conflicts between the parked boats and those accessing the proposed shed. The unsecured area under the elevated walkway to the north would also be partially obstructed by the proposed shed. Therefore, the proposed development would further restrict the amount of space available for dinghy users to manoeuvre in this area and access space for temporary storage. The granting of the proposed application would set a precedent for future storage units and buildings within the harbour and dinghy park area which do not have a clear, locational justification. This would then further restrict the operation of recreational and other uses directly related to the harbour.

It is noted that there are other class 6 storage sheds within the dinghy park area that have been granted planning permission in recent years. In May 2015 planning permission (Ref: 15/00246/P) was granted for a storage hut on a site to the south east of the harbour for beech wheelchair storage. It was not erected in the position it had permission for and following enforcement action, planning permission (Ref: 17/00287/P) was granted for the storage hut just outside the southeast boundary of the dinghy park. In June 2016 temporary planning permission until June 2019 (Ref: 16/00241/P) was

granted for a storage shed for a paddleboard company within the dinghy park area. This has been implemented to the side of the steps leading to the pier. Both these uses are directly related to the leisure use of the harbour area and are to accommodate equipment, which is for use on the beach and in the sea. In both of those cases, the Council as Planning Authority accepted that there was an operational justification of need for those sheds to be located within the harbour area.

In summary, the applicant has not demonstrated a locational justification for the proposed storage shed. The positioning of the shed would have a detrimental impact on the operations of existing harbour users by restricting access and reducing space within the parking area.

REASONS FOR REFUSAL:

- 1 Without an operational requirement for the shed to be located within the dinghy park, the proposed development is contrary to Policy ENV2 of the adopted East Lothian Local Plan 2008.
- 2 Due to its size and in its position the proposed shed would restrict the amount of space available for dinghy users to manoeuvre in this area and access space for storage. The granting of the proposed application would set a precedent for future storage units and buildings within the harbour and dinghy park area which do not have a clear, locational justification. This would then further restrict the operation of recreational and other uses directly related to the harbour.

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