

**PLANNING COMMITTEE**  
**TUESDAY 26 JUNE 2018**

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

**TUESDAY 5 JUNE 2018  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

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

**Other Councillors Present:**

Councillor Goodfellow  
Councillor K Mackie  
Councillor J Henderson  
Councillor J Williamson

**Council Officials Present:**

Mr D Small, Director, East Lothian Health and Social Care Partnership  
Mr I McFarlane, Service Manager – Planning  
Mr C Grilli, Service Manager – Legal and Procurement  
Ms W McGuire, Acting Service Manager – Strategic Investment  
Mr K Dingwall, Team Manager – Planning Delivery  
Ms A Stewart, Housing Enabler  
Mr G Marsden, Planning Obligation Officer  
Mr G McLeod, Transportation Planning Officer  
Ms E Clelland, Planner  
Ms P Bristow, Communications Officer  
Mr J Allan, Planning Technician

**Clerk:**

Ms A Smith

**Visitors Present:**

Item 3 – Mr D Scott, Ms L Meston, Dr C Gill, Ms V Noone, Mr D Jamieson,  
Item 4 – Mr S Stewart

**Apologies:**

Councillor J Findlay

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 1 MAY 2018**

The minutes of the meeting of the Planning Committee of 1 May 2018 were approved.

**2. PLANNING APPLICATION NO.17/00917/PPM: PLANNING PERMISSION IN PRINCIPLE FOR RESIDENTIAL DEVELOPMENT WITH ASSOCIATED INFRASTRUCTURE, LANDSCAPING AND ENGINEERING WORKS – NORTH EAST OF COWPITS ROAD, WHITECRAIG**

A report was submitted in relation to Planning Application No.17/00917/PPM. Keith Dingwall, Team Manager, Planning Delivery, presented the report. The recommendation was to grant consent. He drew attention to recommendation 2(iv) on page 16, informing Members of a change subsequent to completion of the report. At the Council meeting on 29 May 2018, Members had agreed a revised Developer Contributions Framework (DCF), which supersedes the DCF 2016. Therefore, the recommendation for planning permission in principle should be granted subject to the payment of financial contributions based on figures taken from the revised DCF. This had resulted in the change to developer contributions sought for transportation contributions as follows; the total transportation contribution was now £50,394:

- Old Craighall Junction £3,515
- Salter's Road Interchange £15,450
- Bankton Interchange £4,788
- Musselburgh Town Centre Improvements £11,274
- Tranent Town Centre Improvements £3,600
- Rail Improvements £11,767

Mr Dingwall advised that the reason for the revisions to the DCF were:

- Further transport modelling work undertaken since 2016;
- Changes in the costs of the transport infrastructure interventions following more detailed design work; and
- Changes in the proportion of intervention costs that could be recovered through developer contributions to align with Planning Circular 6/2013 on Planning Obligations.

Mr Dingwall, Iain McFarlane, the Service Manager, Planning and Graeme McLeod, Transportation Planning Officer, responded to questions. Councillor Currie queried the status of the proposed Local Development Plan (LDP) in relation to this reduction in developer contributions. Councillor Small asked how this revision affected contributions in respect of previously approved planning permissions, asking when developer contributions were fixed. Mr McFarlane clarified that Council last week had approved for consultation updated supplementary guidance, including regarding developer contributions, which set out the Council's evidence base for contributions based on the LDP policy. The LDP dealt with policy but did not include actual amounts. He stated that if the DCF 2016 figures were adhered to for applications now being considered, rather than the new updated evidence base of the modified LDP, then the Planning Authority would be acting irresponsibly and illegally. The figures officers asked for at the time of previous decisions had the best evidence base at the time and it was imperative this was reflected as accurately as possible. He clarified that there was provision in the legislation for developers to apply for an amendment to a Section 75 Agreement.

Mr McFarlane responded to further questions. Regarding the increase to 250 houses he stressed that every case had to be considered on its merits, even if a particular number of homes had been indicated in the LDP. In relation to developers being able to request an increase in numbers he stated that the density proposed did not conflict with the Council's policy and the developer had satisfactorily demonstrated the case for the increase. He added that the LDP set a strong framework for development and for resisting speculative applications for non-LDP sites, but if a development could accommodate more houses on a site this had, by law, to be given due consideration. He reiterated that every case had to be considered on its merits.

Mr McLeod clarified details regarding the entry route to the site, the school crossing point and the safe route through the development.

Mr Dingwall, responding to questions about the phasing of the affordable houses, advised that this formed part of the legal agreement; there had been no decision yet about this aspect. As regards Whitecraig Community Council, they had been consulted but had not given a response. The Convener raised questions about the SUDS system, specifically adoption by Scottish Water and the ongoing issues with that body. Mr Dingwall advised that there was a requirement now as regards consultation with Scottish Water, which ensured that they were content with the details of a SUDS system. He responded to questions about biodiversity, advising that a Working Group had been set up to review this specific aspect.

Local Member Councillor McLeod stated he did have a few concerns, including the increase to 250 homes and the proposed phasing but he would be supporting the recommendation.

Local Member Councillor McGinn noted that the Community Council had not raised an objection to this application. He would be supporting the report recommendation.

Councillor Small echoed earlier comments about the increase to 250 homes. He hoped that the developer would look at the mix of housing, urging the consideration of some bungalow provision. He would be supporting the recommendation in the report.

Councillor Currie expressed concern about the rise in number of houses. Whitecraig however did need houses; it had missed out previously in respect of developer contributions for facilities. He supported the recommendation but would be moving an amendment in respect of recommendation 2(v) to add a further sentence - *Should however affordable housing not be delivered this would be subject to discussion between Local Members, the Convener and the Planning Service Manager*. Councillor McLeod seconded this.

Councillor Forrest welcomed the report. This was an opportunity for the Council to help develop better services for Whitecraig; the bus service for example needed improved. He would be supporting the recommendation in the report.

The Convener referred to the many comments about the increase to 250 houses. He stated that this had been done on many sites, increasing the density made better use of land, provided more affordable housing and a greater range of house types. As long as the infrastructure, including the education provision, could be provided then he felt this should be encouraged. He did have concerns about the SUDS system but was pleased that Planning Officers were now looking at ways to deal with this issue. He would be supporting the report recommendation to grant planning permission.

The Convener asked Members to vote on the amendment to recommendation 2(v): the addition of *Should however affordable housing not be delivered this would be subject to discussion between Local Members, the Convener and the Planning Service Manager*.

For: 3  
Against: 8  
Abstentions: 0

The amendment therefore fell.

The Convener then moved to the vote on the report recommendation (to grant consent), subject to the changes to developer contributions as outlined by Mr Dingwall:

For: 11  
Against: 0  
Abstentions: 0

### **Decision**

The Committee agreed to grant planning permission in principle 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 £50,394 for transport improvements - £23,753 for road improvements to Old Cragihall Junction, Salters Road Interchange and Bankton Interchange, £11,767 for rail improvements, £11,274 for Musselburgh town centre improvements and £3,600 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 units 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.

**3. PLANNING APPLICATION NO.18/00205/P: ALTERATIONS TO AND CHANGE OF USE OF RESTAURANT, GYM, SWIMMING POOL FACILITIES AND FUNCTION SUITES TO NURSING HOME AND ASSOCIATED WORKS AT THE QUAYSIDE, 131 NEW STREET, MUSSELBURGH**

A report was submitted in relation to Planning Application No.18/00205/P. Mr Dingwall summarising the key points. The proposed decision set out in the report was to grant consent.

Mr Dingwall and David Small, Director of East Lothian Health and Social Care Partnership (HSCP), responded to questions from Members.

Mr Small clarified that there was a difference between a planning application for a care home as opposed to a housing development as regards demands on primary care services. Housing developments added patients to a practice list but their demands on the practice were generally modest, whereas care homes by definition were occupied by the frailest people who required significant support and frequent visits to the care home. In the Integration Joint Board's (IJB) view there was sufficient nursing home provision in East Lothian for the foreseeable future. In addition, the impact of housing developments on practices were situation specific to that housing area and to GP facilities in that area. Musselburgh Primary Care Centre had the space provision as regards expectations in the LDP. There were no physical issues, the issues were about the ability to recruit and retain doctors. He gave details of the current care home provision in the Musselburgh area. Mr Dingwall clarified that health care was capable of being a material consideration where the need for facilities was concerned but that the ongoing costs of GP provision was a matter for the NHS. Mr Small indicated there was a reasonably vibrant private care home market in

East Lothian. He clarified that free personal and nursing care was a cost borne by the Council even in the private care home market. He advised that everyone was entitled to register with an NHS GP. In the HSCP's view this application would create unplanned demand. He confirmed that the kind of demand generated by a nursing home was different, as people tended not to go to their GP but were visited at the nursing home.

Regarding lack of input from the Economic Development service, Mr Dingwall stated that this service area was not one of the bodies required to be statutorily consulted but officers in that service had access to the weekly list of planning applications.

Derek Scott, Planning Consultant, informed Members that Dr Gill the site owner had tried, unsuccessfully over the years, to market the building. Regarding Fisherrow Harbour, he stated that there was no reason why the regeneration could not continue; this proposal would not have an impact. His client's health care providers disagreed with the findings of the HSCP. Many care homes in the county had long waiting lists. Musselburgh, the largest town, had the fewest number of beds. Due to the lack of bed spaces some people had no choice but to seek a care home elsewhere in East Lothian or further afield; this must be given significant weight. There was a very significant shortfall of care home provision in East Lothian. He stressed that the applicant was a care home provider, not a private house builder and they wanted a presence in East Lothian.

Mr Scott, along with Linda Meston, representing the applicant, and Charan Gill, the site owner, responded to questions. Ms Meston clarified that legislation required registration as a care home and requirements for the area would then be looked at. She gave further details of variables requiring consideration, clarifying that the legislation stated that when someone came into a care home they had to be provided for irrespective of nursing, dementia or residential need. Mr Scott clarified that the source of their figures were his client's health care providers, they were not NHS figures.

Dr Gill gave details of the marketing that had been done. He confirmed that Simply Care had been the only interested party; there had been no approach from any community groups.

Ms Meston answered questions on employment contracts and the type and numbers of jobs. She outlined the model of care and the determining factors. Regarding the likely cost of a care home place, she gave details of the various factors that had to be taken into account. She clarified that subject to registration with the Care Inspectorate the aim was to be operational within 12 to 18 months. She confirmed that residents' privacy would be taken into account in relation to the nearby car park.

Councillor Williamson asked Mr Small to respond to Mr Scott's refutation regarding care provision figures. Mr Small indicated that without knowing the source of Mr Scott's data he could not comment on it. He reiterated that the HSCP and the IJB took the view that the current number of care home places (circa 600) was appropriate for East Lothian. He also referred to consultation on the Local Housing Strategy and the proposal for extra care houses for elderly people to meet the needs of the growing elderly population in the future, which would shift the balance of care and make it less institutional.

Veronica Noone spoke against the application on behalf of Fisherrow Waterfront Group (FWG), Musselburgh Area Partnership (MAP) and Musselburgh and Inveresk Community Council. The report underestimated the significant community objection; all the umbrella groups had objected. The report did not address the harbour regeneration or economic development. Fisherrow was the start of the John Muir Way; FWG had worked with the Council to restore and enhance the area. The proposal was contrary to the MAP plan. This area was a hub for the community; it was now a thriving, bustling hub and the proposed use would not be beneficial, it would stifle investment into the area.

Diarmid Jamieson, representing Fisherrow Harbour and Seafront Association (FHSA), spoke against the application. Fisherrow Harbour was a working harbour; he gave examples of the type of usage. The harbour was close to the proposed nursing home and as a working space the area was not suitable for the elderly and frail. FHSA felt the report was flawed; proper analysis had not been carried out. The report failed to recognise that this was a working harbour and the significant potential conflict with this proposal. This was not the right location for a nursing home. The proposal would stifle economic regeneration.

Local Member Councillor Williamson, not a member of the Planning Committee, stated he had brought this application to Committee for the reasons outlined. There had been a lot of hard work and investment in Fisherrow Harbour by community groups over the last few years. He referred to Policy EMP2, which stated that preference should be given to uses that related to fishing or other industry connected with the harbour; this proposal was therefore unsuitable. He hoped that something better, through community effort, could be brought forward to make Fisherrow Harbour the gateway to Musselburgh and East Lothian.

Local Member Councillor Mackie, not a member of the Planning Committee, said she did not support this change of use. She was disappointed that the planning assessment had not taken into account the efforts of local groups. Councillors were active participants in the FHSA; the Council had recommended the establishment of this association. She felt that lack of comment from the Economic Development unit was a missed opportunity. It would also be reckless to ignore the comments from Mr Small on behalf of the HSCP.

Local Member Councillor Currie stated that this building was at the heart of the community. He felt there was a tremendous opportunity in relation to tourism and economic development in this area. Mr Small's comments about the impact of the application on the medical provision had to be taken into account. He had concerns about potential future dangers once the principal of residential use had been given. The proposal was not appropriate in this setting or area. He would not be supporting the application; it would be detrimental to the Musselburgh community.

Local Member Councillor Forrest remarked that he was still undecided. Local harbour groups wanted to take things forward and had worked very hard to improve the area. On the other hand, he did not want the building to become dilapidated.

Councillor McLeod commented on the retail and leisure competition the Quayside had faced and the state of repair of the building. He was also still undecided.

Councillor Small indicated this was a difficult application to determine. Members had heard from local groups about their work and aspirations but also from Dr Gill that the site had not been marketable. He suggested that dialogue take place between the local groups and the site owner to see if some compromise that the community could support could be reached.

Councillor McMillan referred to comments made by Mr Small about the demand that would be placed on the Musselburgh GP Practices and the Care Home Team. He highlighted comments made by the objectors about regeneration and economic delivery. He supported the Musselburgh Area Partnership plan. There was an opportunity to find a consensus to look for alternatives in relation to tourism and leisure. He also referred to the Economic Development Strategy goal of East Lothian being Scotland's leading coastal destination. On balance, he would be going against the report recommendation.

Councillor McGinn said there were dilemmas as regards this application. He had sympathy for Dr Gill's situation. He noted that work carried out by the community groups had made the area thrive. On balance, he would not be supporting the recommendation in the report.

The Convener stated that the building was suitable for conversion to a nursing home; the location was good. He appreciated the aspirations of the community groups but remarked that there was no plan or finance in place, merely aspirations; a planning application could not be refused on this basis. If the Committee did decide to refuse this application, it would go to appeal to the Scottish Government and the Committee's decision would be overturned. He added that the owner had tried for 4 years to sell the building to no avail. He felt that the nursing home could be a great asset to the area.

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

For: 1  
Against: 10  
Abstentions: 0

#### **Decision**

The Committee agreed to refuse planning permission, reasons to be determined by the Legal and Procurement Service Manager, the Convener and Local Members.

*Sederunt: Councillors Kempson, Henderson, Mackie and Williamson left the Chamber. Councillor Goodfellow joined the meeting.*

#### **4. PLANNING APPLICATION NO.18/00396/P: ERECTION OF STORAGE SHED (CLASS 6) – LAND ADJACENT TO THE HARBOUR, VICTORIA ROAD, NORTH BERWICK**

A report was submitted in relation to Planning Application No.18/00396/P. Esme Clelland, Planner, presented the report, summarising the key points. The proposed decision set out in the report was for refusal of the application.

Ms Clelland responded to questions from Members in relation to the dingy park area.

Stirling Stewart, the applicant, outlined the reasons for his application. He clarified that the colour of the shed would be the same as the Lobster Shack. He stated that the Harbour Trust had been consulted, was supportive and had actually suggested this site; it was the only site available at the harbour. The Lobster Shack and Rocketeer were now well established and indelibly connected to the harbour area. They were popular with both locals and visitors. There was a clear operational requirement; the shed would help provide a better service to customers and would reduce the carbon footprint. A locational justification had been demonstrated. His aim was to ensure the continued success of his businesses.

Mr Stewart responded to questions from Members regarding use of the shed, frequency of trips, power location, refrigeration unit noise and source of the lobsters.

Local Member Councillor Goodfellow, not a member of the Planning Committee, outlined the mixed usage of the harbour area. He hoped Members of the Committee would, after having heard from the applicant, appreciate the reasons for the proposal and grant approval.

Councillor Currie remarked that there was another shed close by and other structures in the vicinity. He felt the location was appropriate and the impact would be minor. He would be supporting the application.

Councillor McMillan agreed. He stated that both of these businesses were an established part of the North Berwick harbour area now. He would be supporting the application.

Councillor Bruce agreed with comments made by his colleagues. He added, as regards the long term, that he felt the shed should be tied into the businesses so if they were no longer in operation then there should be a requirement for removal of the shed.

Mr McFarlane advised that Members could consider the use of a planning condition giving a temporary consent for say a year, or tying the siting of the shed to the duration of the businesses.

The Convener agreed with the views expressed. There was a direct connection between these businesses and the operation of the harbour. He praised the success of the Lobster Shack and Rocketeer, which were good for both North Berwick and East Lothian. The Harbour Trust had been consulted and had approved the proposal. He would be supporting this application.

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

For: 0  
Against: 10  
Abstentions: 0

**Decision**

The Committee agreed to grant planning permission subject to the following condition (*put forward by Councillor Bruce and agreed by all present*):

1. In the event that the 'Rocketeer' restaurant (26 Victoria Road, North Berwick) and the 'Lobster Shack' (North Berwick Harbour) snack bar cease to operate, then, unless otherwise approved in writing by the Planning Authority, the class 6 storage shed hereby approved shall be deemed to have ceased to be required. If it is deemed to have ceased to be required the class 6 storage shed shall be removed from the site by the applicant no later than the date occurring 1 month after the cessation of operation of the 'Rocketeer' restaurant (26 Victoria Road, North Berwick) and the 'Lobster Shack' (North Berwick Harbour) snack bar

Reason:

To prevent a redundant storage shed remaining on the application site, in the interests of the character and appearance of the North Berwick Conservation Area.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 26 June 2018  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

**2**

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Application No. **18/00422/PM**

Proposal Deletion of condition 7(iv) to remove proposed footpath link to Muirfield Steading and variation of condition 18 of planning permission 16/00587/PM to amend landscaping detail.

Location **Fenton Gait East  
Gullane  
East Lothian**

Applicant CALA Management Ltd.

Per Apt Planning & Development Ltd.

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

As the area of the application site is greater than 2 hectares, what is 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 type proposal and thus it cannot be decided through the Council's Scheme of Delegation. The application is therefore brought before the Planning Committee for a decision.

The application site is an area of agricultural land in the East Lothian countryside, located on the eastern side of Gullane. It is some 3.68 hectares in area and is roughly rectangular in shape. The land of the application site is defined by Policy DC1 of the adopted East Lothian Local Plan 2008 as being part of the countryside of East Lothian and is not allocated in that Plan for housing development.

On 21 November 2017 planning permission (ref: 16/00587/PM) was granted for the erection on the application site of 40 houses, 8 flats and associated works. Development of the site has commenced and some of the residential units on the site are constructed.

Planning permission ref: 16/00587/PM was granted subject to 19 Conditions.

Condition 7(iv) states that prior to the commencement of development, details showing compliance with the following transportation requirement shall be submitted to and approved in writing in advance by the Planning Authority:

‘a footpath link shall be provided to Muirfield Steading, and a crossing point to the footpath shall be formed on the pavement on the opposite western side of the public road of Muirfield Steading.’

Reason:

In the interests of road and pedestrian safety.

Condition 18 states:

‘All new planting as shown on the docketed landscape layout drawing no. 12-01f, and as specified on docketed drawing no. 12-02e and in the docketed documents titled 'Cala Management Limited, Fenton Gait, Gullane, Landscape Works, Grassed and Planted Areas, Planting Schedule' and 'Cala Management Limited, Fenton Gait, Gullane, Landscape Works, Grassed and Planted Areas, Planting Key' shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

All the new planting shall be maintained in accordance with the maintenance programme as detailed in the docketed document titled 'Cala Management Limited, Fenton Gait, Gullane, Landscape Works, Grassed and Planted Areas, Maintenance Specification'.

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.’

Planning permission is now sought through this application:

(i) to delete part (iv) of Condition 7 of planning permission 16/00587/PM for the requirement for a footpath link to Muirfield Steading and a crossing point to the footpath to be formed on the pavement on the opposite western side of the public road of Muirfield Steading; and

(ii) for a variation of Condition 18 of planning permission 16/00587/PM to amend the approved scheme of landscaping in light of the proposal of (i) above.

In a letter submitted with the application, the applicant’s agent states that the pedestrian link to Muirfield Steading was included in the original landscape and layout plans for planning permission 16/00587/PM to facilitate pedestrian permeability through and beyond the Fenton Gait East site, enabling easy and logical access towards the rest of Gullane to the west (including Gullane Primary School). Since the granting of planning permission 16/00587/PM, East Lothian Council has been unable to confirm that it owns or has adopted the area of land outwith the Fenton Gait East site boundary that would be required to enable the pedestrian link to be delivered. Therefore as the applicant can no longer comply with this condition this application seeks to remove Condition 7(iv).

The letter continues that Condition 18 of planning permission 16/00587/PM refers to a number of documents that clarify the landscape planting proposed for the Fenton Gait



East site. The removal of the pedestrian link requires revisions to the suite of landscape documents which now have amended document reference numbers. Condition 18 therefore needs to be varied to account for these changes.

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.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) or the adopted East Lothian Local Plan 2008 relevant to the determination of this application.

Thirteen written representations have been received to the application. All the written representations are in support of the application. The written representations state that the provision of the footpath link to Muirfield Steading would have a seriously detrimental impact on the privacy, security and amenity of the residents of Muirfield Steading, and would inevitably have led to the private communal gardens and surrounding footpaths of the Steading becoming a 'short cut' to the amenities of the village.

Condition 7(iv) for the footpath link from the application site to Muirfield Steading requires such a footpath to cross an area of verge between the application site and the adjacent public road of Muirfield Steading. The Council's Road Services recommended the requirement for the footpath link from the application site to Muirfield Steading in their consultation response to planning permission 16/00587/PM, with the understanding that the area of verge the footpath would have to cross was part of the adopted road and thus deliverable.

Road Services confirm that after a search of their records they can find no evidence of the area of verge being part of the adopted road. It is now the understanding that the area of verge is under the separate communal ownership of the residents of Muirfield Steading. It is clear from the written representations to this application that the residents of Muirfield Steading would not permit the formation of the footpath over the communally owned area of verge between the application site and the adjacent public road of Muirfield Steading.

In light of this, Council's Road Services have considered again the need for the provision of the footpath link and crossing point to Muirfield Steading. Road Services advise that the application site has good walking connections to the rest of Gullane via the A198 public road on the north side of the site, as new pedestrian crossing points, lengths of new footpath and a Double D island are to be provided to ensure safe pedestrian connectivity, and a safe route to school. Given this Road Services now advise that it is no longer necessary to provide an additional pedestrian route from the site to Muirfield Steading as advised in their consultation response to planning permission 16/00587/PM. They therefore raise no objection to the proposed removal of part (iv) of Condition 7 planning permission 16/00587/PM.

The Council's Landscape Projects Officer advises she is supportive of the proposed revised scheme of landscaping of the site. The provision of the proposed landscaping of the site can be made a condition of a grant of planning permission.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in September 2015. Annex I of

the Circular gives guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation".

At their meeting on 29 May 2018, East Lothian Council approved the East Lothian Local Development Plan (PELLDP) the Council intends to adopt, subject to Scottish Ministers approval, after the Reporters' Examination Report was issued on 14 March 2018. At the same meeting, East Lothian Council also approved for consultation a revised version of the Developer Contributions Framework (DCF) Supplementary Guidance.

The Council's Transport Appraisal (TA) provides the evidence base which has informed the Council's revised draft DCF Supplementary Guidance 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 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 Fenton Gait East site the Council's revised draft DCF Supplementary Guidance sets the requirement for developer contributions towards each intervention as identified through the above process, which is different to that in the original draft DCF as secured by the planning obligation concluded prior to the grant of planning permission 16/00587/PM. The revised intervention figures are as follows (the works are detailed in the Transport Appraisal):

- \* improvements to Salters Road Interchange and Bankton Interchange – £217 and £9,788;
- \* Musselburgh town centre improvements - £1,196;
- \* Tranent town centre improvements – £841.

The total contribution required for transportation improvements resulting from cumulative impacts of the development approved by the grant of planning permission 16/00587/PM is now £12,042.

Therefore, it is recommended planning permission should be granted for the applied for deletion of part (iv) of Condition 7 and for the variation to Condition 18 of planning permission 16/00587/PM, and subject to all of the conditions from planning permission 16/00587/PM, where it is intended these should apply. In this case, all of the other conditions should continue to apply. It is also recommended that planning permission should be granted subject to the prior conclusion of a planning obligation to secure the revised contributions outlined above, and otherwise on the same terms as that of planning permission 16/00587/PM.

## RECOMMENDATION

It is recommended that planning permission 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:

(i) secure from the applicant a financial contribution to the Council of £715,325.76 towards the provision of additional accommodation at Gullane Primary and Nursery School and North Berwick High School;

(ii) secure from the applicant 12 affordable residential units within the application site or if it can be demonstrated to the Council that this, or the off-site provision of 12 affordable residential 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; and

(iii) secure from the applicant a financial contribution to the Council of £24,816 for the provision of additional play equipment and/or for some other enhancement of the play area at Recreation Park, Muirfield Terrace, Gullane;

(iv) secure from the applicant a financial contribution to the Council of £27,216 for the provision of increased sports pitch capacity; and

(v) secure from the applicant a financial contribution to the Council of £12,042 for road improvements to Salters Road Interchange and Bankton Interchange, Musselburgh town centre improvements and Tranent town centre improvements.

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 sufficient school capacity at Gullane Primary and Nursery School and North Berwick High School, a lack of provision of affordable housing, a lack of formal play and sports pitch provision and a lack of roads and transport infrastructure improvements contrary to, as applicable, Policies INF3, H4 and C2 of the adopted East Lothian Local Plan 2008.

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

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

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

Reason:

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

2 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 - 9 residential units  
Year 2019/2020 - 34 residential units  
Year 2020/2021 - 5 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 2023/2024 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 Notwithstanding that which is stated on the drawings docketed to planning permission 16/00587/PM a detailed specification of all external finishes of the houses and flats hereby approved shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses and flats, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the houses and flats shall conform to the details so approved.

Reason:

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

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

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

Vehicle access's to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles.

Reason:

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

- 5 The vehicular access junction from the A198 shall be designed in accordance with the Design Manual for Roads and Bridges, Volume 6.

Reason:

In the interests of road safety.

- 6 Within two months of the date of the grant of this planning permission a 30 miles per hour (mph) speed limit on the A198 public road shall be brought into effect in a location from the existing 30 miles per hour (mph) speed limit on the A198 public road eastwards to include along the entire length of site frontage. Details of the new 30 miles per hour speed limit shall be submitted to and approved in advance by the Planning Authority and shall include the provision of street lighting over the full extent of the proposed new 30mph speed limit and shall incorporate town entry treatments. Thereafter the new 30 miles per hour speed limit, street lighting and town entry treatments shall be implemented and installed in accordance with the details so approved.

Reason:

In the interests of road safety.

- 7 Within two months of the date of the grant of this planning permission, details showing compliance with the following transportation requirements, including a timetable for their implementation, shall be submitted to and approved in writing by the Planning Authority:

(i) pedestrian crossing points shall be formed on the A198 public road in close proximity to the site vehicular access junction to link the proposed new development's footways with the north side of the A198 and the wider footway network towards Dirleton and North Berwick;

(ii) a continuous 2 metre wide footway shall be provided on the south side of the A198 over the full extent of the new 30 mph speed limit as required by Condition 6 above (i.e. from the existing junction at the C111 Fenton Road to the new 30 mph speed limit on the eastern side of the site access junction). Dropped kerb tactile crossings are required at the junction with C111 public road;

(iii) a Double D island shall be constructed on the western side of the vehicular access junction with the A198 public road to provide a safe crossing point to the north side of the A198 for pedestrians wishing to access the wider footpath network to Dirleton and North Berwick;

(iv) a continuous 2 metre wide footway shall be provided on the west side of the C111 public road from its junction with the A198 (Main Street) to the pedestrian access link into West Fenton Gait; A raised table shall be introduced at this location to assist in reducing vehicle speeds;

(v) cycle parking shall 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.

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

Reason:

In the interests of road and pedestrian safety.

- 8 A visibility splay of 2.4m by 70m to the west and 2.4m by 160m to the east shall be provided and maintained at the proposed site access junction with the A198 public road so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface.

Reason:

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

- 9 Within two months of the date of the grant of this planning permission an independent road safety audit shall be submitted to and approved by the Planning Authority for the proposed site vehicular access junction onto the A198 public road.

Reason:

In the interests of road safety.

- 10 A Green Travel Plan shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units approved by the grant of planning permission 16/00587/PM. 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.

- 11 Within two months of the date of the grant of this planning permission 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. 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.

- 12 Within two months of the date of the grant of this planning permission an effective vehicle wheel washing facility shall be installed on the application site in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. Such facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason:

In the interests of road safety.

- 13 The mitigation measures for the prevention of disturbance and/or displacement of pink footed geese during the construction and operational phases of the development approved by the grant of planning permission 16/00587/PM shall be implemented in strict accordance with those detailed in section 5.2 'Mitigation Measures' of the FENTON GAIT EAST: Assessment of effects on pink footed geese (*Anser brachyrhynchus*) as a qualifying feature of the Firth of Forth Special Protection Area (SPA) document by ITP Energised docketed to planning permission 16/00587/PM.
- Reason:  
To safeguard species of the Firth of Forth Special Protection Area.
- 14 A timetable for the provision of the erection of the boundary enclosures for the rear gardens of the houses approved by the grant of planning permission 16/00587/PM shall be submitted to and approved in advance by the Planning Authority and development shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.
- Reason:  
To ensure the satisfactory provision of the boundary enclosures in the interest of safeguarding the privacy and amenity of future residents of the development and residential properties nearby.
- 15 All the open space recreation areas indicated on the site layout plan docketed to planning permission 16/00587/PM shall be available for use prior to the occupation of the last house or flat on the site.
- The open space recreation areas, when provided, shall be used for such purposes at all times thereafter unless otherwise agreed in writing by the Planning Authority.
- Reason:  
To ensure the satisfactory laying out of all areas of open space in the interest of the amenity of the future occupants of the dwellings hereby approved.
- 16 No trees or shrubs, which are to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the prior written consent of the Planning Authority.
- Reason:  
To ensure the retention and maintenance of the trees which are an important landscape feature of the area.
- 17 Within two weeks of the grant of this planning permission temporary protective fencing shall be erected in accordance with Figure 2 of British Standard 5837\_2012 "Trees in relation to design, demolition and construction". This temporary protective fencing shall be retained on site and intact through to completion of development. The fencing shall be erected in the positions shown for it as indicated by the blue dashed lines on the docketed landscape layout drawing no. 12-01j.
- All weather notices shall be erected on said fencing with words such as "Construction exclusion zone - Keep out". Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used. Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees. Any materials whose accidental spillage would cause damage to a tree shall be stored and handled well away from the outer edge of its root protection area. Fires on sites should be avoided if possible. Where they are unavoidable, they should not be lit in a position where heat could affect foliage or branches. The potential size of a fire and the wind direction should be taken into account when determining its location and it should be attended at all times until safe enough to leave.
- Reason:  
To ensure the retention and maintenance of trees which are an important landscape feature of the area.
- 18 All new planting as shown on the docketed landscape layout drawing no. 12-01j, and as specified on docketed drawing no. 12-02g and in the docketed document titled 'Cala Management Limited, Fenton Gait, Gullane, Landscape Works, Grassed and Planted Areas, Planting Schedule' shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously

damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

All the new planting shall be maintained in accordance with the maintenance programme as detailed in the docketed document titled 'Cala Management Limited, Fenton Gait, Gullane, Landscape Works, Grassed and Planted Areas, Maintenance Specification'.

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.

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

Reason:

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

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

**3**

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Application No. **17/00767/PM**

Proposal Refurbishment of existing coastal defence provisions and the installation of new interventions including rock armouring and refurbishment of timber revetments, planting of marram grass, and installation of a new Dune Protection System

Location **West To East Of North Berwick Shoreline  
North Berwick  
East Lothian  
EH39 4BB**

Applicant The North Berwick Golf Club

Per EnviroCentre Ltd

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

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

This application relates to an area of land comprising the northern edge of the North Berwick Golf Club and including the foreshore of the coastline of the Firth of Forth. The land comprises the interface between the North Berwick Golf Course and the shoreline and extends from the western side of North Berwick Bay westwards to Broad Sands for the full length of the West Links Golf Course. The application site measures some 73 hectares in area. The area of land between the Golf Course and the coastline consists of grassland and sand dunes. A number of formal and informal footpaths traverse that land.

Due to its coastal location the application site is at risk from coastal flooding and is noted as such on the Scottish Environment Protection Agency's flooding maps.

The site forms part of the Firth of Forth Special Protection Area (SPA) and the Firth of Forth Site of Special Scientific Interest (SSSI). Parts of the site are also within Priority Habitat areas. The site is also close to the Forth Islands Special Protection Area (SPA) and Site of Special Scientific Interest (SSSI).

The western part of the site is within the Longniddry – North Berwick Coastline Area of Great Landscape Value. The eastern part of the application site is within the North Berwick Conservation Area.

Within the application site is the Scheduled Ancient Monument of Westerdunes Court Pillbox.

Outwith the application site to the south are a number of listed buildings. The nearest listed buildings are Carlekemp (Category A), Bunkerhill (Category A), Westerdunes (Category A), Engine Cottage (Category B), all of which are on Abbotsford Road. Further nearby listed buildings are the Marine Hotel at 18 Cromwell Road (Category B), Minaki (Category B) and St Anns (Category C) on York Road, and Inveriel House (Category B) and Inveriel Coachhouse (Category C) on Dirleton Road.

The site is bounded to the north by the beach and shoreline of the Firth of Forth.

Planning permission is sought for the refurbishment of existing coastal defence provisions and the installation of new coastal defence provisions, including rock armouring and refurbishment of existing timber revetments, planting of marram grass and the installation of a new Dune Protection System of soft rock sand bags.

As a statutory requirement of major development applications, this development proposal was the subject of a Proposal of Application Notice (Ref: 16/00025/PAN) and of the required community consultation prior to the application for planning permission being made to the Council.

As a further statutory requirement of major development applications, a pre-application consultation report is submitted with the proposal. The report informs that a total of 26 people attended the pre-application public exhibition, which was held at North Berwick Community Centre, and that 20 of the attendees completed questionnaires. Of the 20 questionnaires received 19 were from respondents who live in the local area. Of the 20 questionnaires received, 18 respondents supported the proposal, 1 respondent objected to the proposal and 1 respondent neither supported nor objected to the proposal. Of the 20 questionnaires received, 17 respondents provided further comments on the proposals. The development for which planning permission is now sought is of the same character as that subject to the community engagement undertaken through this statutory process.

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). On 12 April 2017 the Council adopted a Screening Opinion that an Environmental Statement was required and a subsequent Scoping Opinion (18 June 2017) setting out the matters to be considered in the Environmental Statement, including biodiversity/ecology, soil/geology, coastal processes and water environment, material assets Scottish Water, and Cultural Heritage matters. An Environmental Statement was submitted to the Council on 9th February 2018 and has been duly advertised and consulted on.

The Environmental Statement comprises the following documents: (i) Volume 1: Environmental Statement; (ii) Volume 2: Figures; (iii) Volume 3: Technical Appendices; (iv) Environmental Statement - Non Technical Summary; (v) letter from EnviroCentre dated 21st November 2017 and (vi) Updates to ES and Technical Appendices Text (received 23rd November 2017).

The Environmental Statement explains that due to the northern facing orientation of the Golf Course, the application site is exposed to coastal processes such as wind and rain, and susceptible to climate change impacts, which are all likely to contribute greatly to increased erosion along the coastline and thus along the application site, which are susceptible to periods of accretion and erosion occurring in a cyclical nature.

The proposals were amended prior to the submission of the application to no longer include the extraction of materials from below the Mean High Water Springs. This is detailed in the letter from EnviroCentre dated 21st November 2017, which forms an Addendum to the Environmental Statement (ES).

The application is also supported by a Planning Statement and a Design and Access Statement.

The Planning Statement explains that the site is located along the southern shoreline of the Firth of Forth, comprising of raised beach foreshore, with beaches and rocky outcrops. The statement acknowledges that the shoreline of the Golf Course is recognised as an important natural environment providing high ecological and habitat resources. The statement goes on to state that the applicant has recognised the threat that coastal erosion has upon the site and seeks to improve existing protection interventions through the implementation of soft engineering interventions in the form of a dune protection system, rock armouring and timber sleepers, and marram grass planting, including some geotextile marram grass planting. It is explained that the proposed Dune Protection System of soft rock sand bags would closely simulate the surrounding beach structure and its hydraulic properties.

The Design and Access Statement explains that the golf course is of importance in terms of both its historical significance as one of Scotland's original links courses and its regular listing among the top golf course in the world and the environmental and ecological importance of the Firth of Forth. In light of these considerations, the proposals have been designed to ensure that the integrity of the golf course and its environment would not be compromised through the use of minimal intervention and impact. The chosen design options are minimal intervention and of soft appearance so that they would not alter the appearance of the course but would be robust enough to withstand daily footfall and tidal movements. Maintenance of the proposals would also be minimalist with regular visual checks by green keeping staff, starting at 1 monthly intervals and extending to 2, 4 and 6 monthly intervals as protection measures become established. Any elements of the proposals that fail (i.e. marram grass plants that do not take or are uprooted, geo-grid pinning, soft rock sand bags and rock armouring) would be replaced or re-sited as respectively required. The statement goes on to explain that hard designed options (i.e. man-made rock filled gabion baskets or extended rock armouring) were discounted for their harmful visual impact. Sand nourishment/recycling was also rejected due to the long term maintenance requirements of this process, the consenting process associated with it, and as there is no clear estuary bar or accreting ridge from which materials could be recycled regularly.

Since the application was registered additional information has been provided to:

(i) increase the buffer zone around the scheduled monument of Westerdunes Court Pillbox from 15 metres to a minimum of 18 metres;

- (ii) amend errors on the application drawings;
- (iii) provide additional elevations and cross sections of the proposed sections of soft rock sand bags, rock armouring and timber revetments, and marram grass planting (with and without geotextiles); and
- (iv) clarify any proposed works to the existing golf course access tracks.

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 South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), NH1a (Internationally Protected Areas), NH1b (Sites of Special Scientific Interest), NH3 (Important Local Biodiversity Sites), NH4 (Areas of Great Landscape Value), ENV3 (Listed Buildings), ENV4 (Development Within Conservation Areas), ENV7 (Scheduled Monuments and Archaeological Sites), C3 (Protection of Open Space), C6 (Rights of Way), T2 (General Transport Impact), DP1 (Landscape and Streetscape Character), DP2 (Design), DP13 (Biodiversity and Development Sites), 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 was submitted to Scottish Ministers for Examination in 2017 and the Reporters' Examination Report was issued on 14 March 2018. The East Lothian Local Development Plan (ELLDP) was thereafter modified following the Examination. At their meeting on 29 May 2018, the Council approved the ELLDP as the Local Development Plan the Council intends to adopt. The ELLDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications. Relevant Policies DC1 (Rural Diversification), DC6 (Development in Coastal Areas), DC9 (Special Landscape Areas), NH1 (Internationally Designated Sites (RAMSAR)), NH2 (Protection of Sites of Special Scientific Interest and Geological Conservation Review Sites), NH3 (Protection of Local Site and Areas), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species), NH11 (Flood Risk), CH1 (Listed Buildings), CH2 (Development in Conservation Areas), CH4 (Scheduled Monuments and Archaeological Sites), DP1 (Landscape Character), DP2 (Design), OS1 (Protection of Open Space) and T2 (General Transport Impact) of the ELLDP do not represent any significant alteration to the current relevant policy.

Material to the determination of the application is the Scottish Government's policy on development affecting a Special Protection Area (SPA) or Site of Special Scientific Interest (SSSI), development affecting a Conservation Area and development affecting a listed building or its setting given in Scottish Planning Policy: June 2014.

Scottish Planning Policy states that any development proposal likely to have a significant effect on an SPA, and which is not directly connected with or necessary to their conservation management must be subject to an "appropriate assessment" of the implications for the conservation objectives. Such development proposals may only be approved where: (i) the competent authority has ascertained by means of an "appropriate assessment" that there will be no adverse effect on the integrity of the site; or (ii) where there are no alternative solutions, there are imperative reasons of overriding public interest, including those of a social or economic nature and compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

North Berwick Community Council as a consultee on the application advise that they have no comments to make regarding the proposed development or the environmental statement.

The application site is part of the North Berwick West Links Golf Course. The site comprises the northern edge of the golf course and the interface of it with the shoreline of the Firth of Forth. It is covered by Policy DC1 of the adopted East Lothian Local Plan 2008. The site is also identified as being recreational, leisure and amenity open space as defined by Policy C3 of the adopted East Lothian Local Plan 2008.

The proposed development is a series of soft engineering solutions, comprising a soft rock sand bag dune protection system, rock armouring and timber revetments, geo-cell path protection with marram grass planting and marram grass planting on the dunes, intended to combat the rate of erosion currently experienced along the northern edge of the West Links Golf Course.

As the proposed development is to facilitate the continuing existing recreational use of the recreational open space of the West Links Golf Course, it has a clear operational justification of need to be in this location. Accordingly, the principle of the proposed development is consistent with Policies C3 and DC1 (Part 1a) of the adopted East Lothian Local Plan 2008.

The proposed development is for a series of soft engineering interventions to address erosion issues at the North Berwick West Links Golf Course interface with the southern shoreline of the Firth of Forth.

The purpose of the works is to preserve the existing course layout in the short to medium term, whilst remaining aware of the challenges posed by climate change in the longer term. It is proposed that a series of soft engineering solutions would be installed to supplement and improve the existing coastal erosion mitigation that already exists along the northern edge of parts of the West Links Golf Course in order to combat the rate of erosion.

The proposed soft engineering solutions comprise:

- \* The repair and reinstatement of a 150 metres length of rock armouring and timber revetments;
- \* The planting of marram grass in coastal strips at five locations along the northern edge of parts of the West Links Golf Course;
- \* The planting of marram grass within geo-cell path protection at four access points from the Golf Course onto the foreshore;
- \* The installation of soft rock sand bags within a dune protection system extending for some 380 metres of the dunes to the west of the Eel Burn.

The proposed rock armouring and timber revetments would comprise of the re-enforcement and improvement of the existing rock armouring and timber revetments through the repair and reinstatement of some of the existing timbers, the installation of a geo-textile liner across the face of the timber revetments, a timber capping beam along the length of the top of the vertical timbers and the installation of additional rock armouring (approx. 994 tonnes) in front of the timber revetment wall. The rock used for the rock armouring would be a mixture of material comprising the re-siting of the existing rock armouring, imported rock and loose rock in the vicinity of this part of the proposed development. There would be no change to the height of the timber revetments. The proposed rock armouring would reinstate the rock armouring to the height of the timber revetments and would project outwards away from the timber revetments by some 3 metres.

The proposed marram grass planting in coastal strips would comprise marram grasses planted directly into the dunes at a ratio of 4 plants per square metre density, and would extend the vegetative planting further down the dunes towards the shoreline with the intention of stabilising the dune. The extent of each of the sections of marram grass planting of the dunes varies between 2.5 metres and 7.5 metres further down the dune towards the shoreline. The root structure of the marram grass would stabilise the shifting sand dunes and increase natural protection.

At the four access points from the golf course down onto the foreshore, geo-cell path protection is proposed to be installed and further marram grass planting would be undertaken. It is proposed that the existing surface material (i.e. sand, etc.) would be removed and retained. A geo-cell path protection grid would be set in place with pins and the surface material re-laid to infill the grid. Marram grass would then be planted throughout at a ratio of 4 plants per square metre density. The root structure of the marram grass would stabilise the shifting sand dunes and increase natural protection, thus improving the stability of the footpath accesses.

The proposed dune protection system would comprise the excavation of the sand from the dune, the lining of the exposed dune slope with geotextile filter that would be overlain with two layers of soft rock sand bags and the crest of the dune would be capped by a geotextile wraparound construction technique. All of this would be overlain with the excavated sand and additional sand sourced from the shore in the vicinity of this part of the proposed development. The resulting top profile of the dune would mimic the existing top profile of the dune but would provide improved stability. Marram grasses would be planted on the reinstated sand to further stabilise the dune surface. The height of the resulting dune would be similar to that of the existing dune however it would have a more uniform, 'smoothed out' appearance. Furthermore, the surface profile of the dune (facing the shoreline) would project further northwards onto the foreshore and would also have a more uniform, 'smoothed out' appearance.

The proposed development would be readily visible in public views from the beach and foreshore to the north. There would also be public views from the numerous formal and informal footpaths that cross the golf course at the interface between the golf course with the shoreline. Due to the nature of the proposed development and their location on the edge of the foreshore, there would be only limited and partial views of the proposed development from the residential properties further to the south, from where only the upper parts of the proposals would be visible. In the public views of it, when seen in relation to the other land of the northern edge of the golf course and its interface with the foreshore, and the remaining existing dunes, vegetation and bedrock of the foreshore, the proposed development by virtue of its size, height, form, appearance and surface finishes would have a minimal impact on the visual aesthetic of the land of the application site. Consequently, the proposed development would not be an alien feature harmful to the landscape character and visual amenity of the area. It would not be harmful to the character and appearance of this part of the North Berwick Conservation Area and would not be harmful to the landscape character and appearance of the Area of Great Landscape Value.

Nor due to its minimal visual impact and the distances involved would the proposed development have a detrimental impact on the setting of any of the listed buildings that are some distance away to the south.

On these considerations the proposals are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies DC1 (Part 5), NH4, ENV3, ENV4, DP1, and DP2 of the adopted East Lothian Local Plan 2008 and Scottish Government's policy on development affecting a conservation area and development

affecting the setting of a listed building given in Scottish Planning Policy: June 2014.

None of the proposed development would be on the land of the scheduled ancient monument of Westerdunes Court Pillbox. Moreover, the application drawings propose that a buffer zone, some 18 metres in diameter centred on the scheduled monument, would be formed and marked out. Thus, the proposed development would not impact directly on the scheduled monument. Although there would be disruption in the vicinity of the scheduled monument during the construction process, once constructed, the proposed development, by virtue of its appearance and its finishes being in keeping with the vegetation of the existing dunes and foreshore, would not have a harmful impact on the setting of the scheduled monument of Westerdunes Court Pillbox.

In respect of the proposed development and the environmental statement, Historic Environment Scotland advises that they raise no objection to the proposals subject to the scheduled monument of Westerdunes Court Pillbox being marked out with a suitable buffer zone in order to ensure that there would be no significant impacts on the scheduled monument. The buffer zone around the scheduled ancient monument has been amended to increase it from 15 metres diameter (centred on the scheduled monument) to 18 metres (centred on the scheduled monument). The requirement for this buffer zone to be marked out could be controlled by a condition attached to a grant of planning permission.

On this consideration, the proposals are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy ENV7 of the adopted East Lothian Local Plan 2008 and Scottish Government's policy on development affecting a scheduled monument given in Scottish Planning Policy: June 2014.

The application site is within the Firth of Forth Special Protection Area (SPA), a complex of estuarine and coastal habitats in south east Scotland stretching east from Alloa to the Coasts of Fife and East Lothian. Beyond that SPA, further to the north, is the Forth Islands Special Protection Area.

The application site is also within the Firth of Forth Site of Special Scientific Interest (SSSI), which is important for a variety of geological and geomorphological features, coastal and terrestrial habitats, vascular plants, invertebrates, breeding, passage and wintering birds.

The Environmental Statement assesses the potential impacts of the proposed development on these environments and to propose measures to mitigate for the proposed development.

Included within the Environmental Statement for the proposals is a description of the proposed development, an assessment of the existing habitats, ecology, water environment and coastal processes, cultural heritage and archaeology, noise, air quality, landscape and visual impact, traffic and transport and ground conditions and contaminated land. The Environmental Statement also includes Habitats Regulations Appraisal (HRA).

The proposed development has been designed to be a soft engineering intervention that is proposed to address the threat of coastal erosion upon the site and seeks to improve existing protection interventions in a manner that, once completed, would closely simulate the surrounding beach structure and its hydraulic properties.

Scottish Natural Heritage (SNH) note that the proposal is for a series of coastal works to address erosion issues at North Berwick Golf Course in order to preserve the existing

course layout in the short to medium term, whilst remaining aware of the challenges posed by climate change in the longer term.

SNH note that an Environmental Statement has been submitted for the proposed development. They note that a Habitats Regulations Appraisal (HRA) has been carried out on behalf of the applicant by EnviroCentre and that this document along with the Ornithology Report – Autumn 2016 that informs the HRA are thorough in their examination of the baseline environment and the potential impacts arising from the proposals. SNH advises that they support the conclusions of the HRA (section 3.3.5), which depend upon construction and operational mitigation measures. SNH advise therefore that they object to the proposed development unless the mitigation measures set out in sections 3.2.1 and 3.2.2 of the HRA are secured by conditions of a grant of planning permission. Those mitigation measures include, but not exclusively, the provision of a construction environmental management plan (CEMP), the employment of an ecological clerk of works (ECoW) to be present during the construction works, and the timing of the proposed development to avoid breeding season for the birds where possible.

SNH also note that the HRA does not address the Outer Firth of Forth and St Andrews Bay Complex proposed SPA however from their own assessment SNH conclude that this site can be screened out of HRA as ‘no likely significant effects’ arise from the proposals upon the relevant species, which is primarily due to the nature and relatively small scale (timing, extent) of the proposed works as well as the limited presence of relevant bird species at the proposed location.

On the matters of the impacts on the Firth of Forth SSSI, Scottish Natural Heritage (SNH) advise that the impact on birds is covered by the HRA. In respect of the sand dunes, SNH advise that at this location the sand dune dynamics are already constrained by the presence of the golf course on the landward side of the dune and thus they support the Environmental Statement conclusion that the proposed dune stabilisation works would not significantly affect the status of this particular dune. Nevertheless, SNH comment that the proposed dune stabilisation works introduce a possibility of bypass erosion occurring at the western end of the proposed soft rock sand bags and as such they recommend that all monitoring and mitigation measures described in section 5.9 of the Environmental Statement are secured by a condition of a grant of planning permission.

SNH further recommend that no gravel or topsoil should be imported into the site for use in the planting of marram grass within geotextiles unless such materials are found naturally occurring in the vicinity of such proposed works. SNH advise that to use such materials where neither is found naturally in the vicinity of the proposed works would be bad practice. This requirement could be controlled by a condition attached to a grant of planning permission.

SNH further recommend that no exposed intertidal bedrock should be removed for use in the proposed rock armouring. Rather they advise that only existing loose rock armouring, imported rock material or loose rocks from the immediate vicinity of the proposed works should be used and that this should be secured through a condition of a grant of planning permission.

The Council’s Biodiversity Officer has undertaken an Appropriate Assessment of the ‘likely significant effects’ of the proposals on the designated site. The Biodiversity Officer concludes that the proposals would not cause a loss of habitat from the qualifying interests of the SPA but could cause disturbance. However, he notes that there is an existing and long-established level of disturbance in this locality caused by people and dogs walking on the beach and the golf course and that any disturbance caused by the



construction works associated with the proposed development would be temporary and limited to the duration of construction operations. The Biodiversity Officer is satisfied that disturbance caused by construction works could be reduced or eliminated by timing construction works to avoid the winter months (September to March inclusive), or if this is not possible the employment of an ecological clerk of works to advise on the timing or duration of operations should be secured by a planning condition.

In conclusion, subject to the aforementioned planning controls, including the provision of a construction environmental management plan to reduce the risk of environmental impacts during the constructional phase of the development and the employment of an ecological clerk of works (ECoW), Scottish Natural Heritage and the Council's Biodiversity Officer are satisfied that the integrity of the SPA and SSSI would not be compromised. Thus, the proposals would be consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and with Policies NH1a, NH1b, NH3 and DP13 of the adopted East Lothian Local Plan 2008.

The Council's Policy and Projects (Landscape) Team advise that, due to the nature of the proposed works, their sensitive design and proposed materials, along with the necessary requirements in safeguarding the vulnerable elements within this length of coastline from further erosion, they raise no objection to the proposed development.

The Council's Sport, Countryside and Leisure Service advise that they are in principle supportive of the proposed development to mitigate for coastal erosion of this section of coastline.

Due to its coastal location, the application site is identified as being susceptible to coastal flooding on the Scottish Environment Protection Agency (SEPA) flood maps.

SEPA raise no objection to the proposed development. They do however advise that all works be carried out outwith the bathing season (May to September) to prevent any impacts on water quality in the adjacent designated bathing waters. A copy of SEPA's response has been forwarded to the applicant's agent for their information.

The Council's Structures, Flooding and Street Lighting Team Manager advises that they concur with SEPA's comments and raise no objection to the proposed development.

Accordingly, the proposed development does not conflict with Policy DP16 of the adopted East Lothian Local Plan 2008.

Marine Scotland raise no objection to the proposals. They confirm that a marine licence is not required for the proposed development as the applicant has confirmed they will not be removing material from the foreshore.

Scottish Water raises no objection to the proposed development. In respect of the Environmental Statement, Scottish Water advise that they have a number of assets in the vicinity, which could be affected by the proposals. They recommend that the location of all Scottish Water assets (including water supply and sewer pipes, water and waste treatment works etc.) should be confirmed and identified by the developer through obtaining detailed plans from Scottish Water Asset Plan Providers, and that all of Scottish Water's processes, standards and policies in relation to dealing with asset conflicts must be complied with. In the event that asset conflicts are identified then contact should be made with Scottish Water Asset Impact Team. Copies of both of the response received from Scottish Water have been forwarded to the applicant's agent for their information.

General access to the application site would remain unchanged. There are a number of pedestrian accesses to the site from formal and informal public footpaths in the vicinity and from the beach and foreshore.

Due to its positional location, on the land of the interface between the Golf Course and the foreshore, the proposed development would, during its construction phase, be likely to impact on the public footpath that passes along this area of land and pedestrian access from the Golf Course onto the foreshore and beach. The Design and Access Statement submitted with the application indicates that diversions would be agreed with the Golf Course Manager and contractor prior to the works commencing. Any such disruption would be for a limited and temporary nature and access to the footpath and beach accesses would thereafter be available and open for use following completion of development.

Access to the site during construction would be taken from the northern end of Hamilton Road via existing golf course maintenance tracks. Where construction vehicles and plant would cross the golf course at the two proposed locations of the 3rd and 12th holes, temporary protection in the form of heavy-duty ground protection mats or similar would be put in place for the duration of the works only.

The Council's Road Service raises no objection to the proposed development being satisfied that the proposals would not have a detrimental impact on road or pedestrian safety.

Accordingly, these matters of road and pedestrian safety, the proposed development does not conflict with Policies T2 and C6 of the adopted East Lothian Local Plan 2008.

The nature of the proposed development is such that it would not result in a harmful loss of amenity, through overshadowing or overlooking, to any neighbouring use or residential property.

The Council's Environmental Protection Service advises that they have no comment to make on the proposals.

No public representation to the application has been received.

## RECOMMENDATION

That planning permission be granted subject to the undernoted conditions;

- 1 Prior to the commencement of development on the site a development exclusion zone to provide a buffer of at least 18 metres diameter centred on the scheduled ancient monument of Westerdunes Court Pillbox shall be marked out on the site, all in accordance with details of the form and position of the exclusion zone to be submitted to and approved in advance in writing by the Planning Authority, and thereafter the exclusion zone shall be marked out as approved and shall be retained and maintained until the completion of development.

Reason:

In the interests of safeguarding the scheduled ancient monument of Westerdunes Court Pillbox.

- 2 Only existing rock armour, imported rock materials or loose rocks from the immediate vicinity of the development hereby approved shall be used in the rock armouring also hereby approved unless otherwise approved in advance in writing by the Planning Authority.

Reason:

In the interests of protecting the nature conservation interests of the Firth of Forth Site of Special Scientific Interest.

- 3 No topsoil or gravel shall be used in the planting of marram grasses in geotextiles hereby approved unless such materials are naturally occurring in the vicinity of the geotextile marram grass planting hereby approved unless otherwise approved in advance in writing by the Planning Authority.

Reason:

In the interests of protecting the nature conservation interests of the Firth of Forth Site of Special Scientific Interest.

- 4 Prior to the commencement of development on the site a Construction Environmental Management Plan (CEMP), including a Pollution Prevention Plan, shall be submitted to and approved an advance in writing by the Planning Authority in consultation with SNH and thereafter all construction works associated with the development hereby approved shall accord with the approved Construction Environmental Management Plan (CEMP), unless otherwise approved in writing by the Planning Authority in consultation with SNH.

The Construction Environmental Management Plan (CEMP) shall include but not exclusively the following mitigation measures:

**CONSTRUCTION:**

- Work shall be planned and scheduled to limit damage to the Firth of Forth SPA and its qualifying features and to the Firth of Forth SSSI and its protected species, habitats and geodiversity features;
- Temporary or permanent management access routes to the dune face must be planned and constructed to minimise trampling damage, to limit the formation of blowouts, and to allow wildlife to habituate to plant movement and avoid any startling effect;
- The timing of works shall avoid the breeding season where possible (works are currently planned to be undertaken during the non-breeding period);
- The timing of works shall avoid dawn and dusk where possible as these are usually the times of day when birds are most active, and any reduction in potential disturbance is welcomed;
- All site staff shall be provided with information regarding the sites' ecological sensitivities as part of the Health and Safety Induction;
- All site staff shall be aware of the need for careful working practices to avoid environmental damage and to avoid hazards associated with steep and unstable dune faces;
- An Ecological Clerk of Works (ECoW) shall be employed during construction to advise on the timing and/or duration of operations, monitor bird activity and undertake nest checks, bird counts, and offer advice to the general public, the golf club and the contractors regarding notable species, sensitive areas and legal obligations;
- Damaged sand bags shall be repaired rapidly to avoid failure of the structure or removed to avoid any detriment to the landscape;
- Works shall be carried out during the winter months;
- Short construction phase;
- Work shall be undertaken during daylight hours with limited use of artificial lighting and no artificial lighting shall be used at the mouth of the Eel Burn;
- Only two access points to the beach shall be used for construction traffic (vehicular or pedestrian);
- Crossing at the point where the Eel Burn no longer forms a defined channel;
- Use of bog mats on access tracks;
- A speed limit of 15mph to be applied to all site traffic;
- Offsite storage of materials and fuel;
- An inspection schedule to ensure vehicles are checked prior to accessing the beach;
- Limits to recreational use of the beach during construction;
- Measures to manage otter/badger habitats and disturbance of those habitats.

Monitoring of all of the above mitigation measures shall be carried out in accordance with CIEEM guidance.

**POST CONSTRUCTION:**

- Monitoring of the beach / dune interface shall be undertaken at least bi-annually to:
- Identify and understand change;
- Guide the planning of management actions; and
- Appraise the performance and impacts of management.

Reason:

To protect the Firth of Forth Special Protection Area and Site of Scientific Interest from significant disturbance arising from the construction and subsequent maintenance of the development hereby approved.



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 26 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 McMillan for the following reasons: this application is heavily conditioned, and given community concerns, I believe this should be considered by Committee. This is a unique site and I believe a visit by the Committee to see access, surroundings and assess the impact on local, neighbouring farms is necessary so that they can reach a decision on the viability of the proposal, and the possible effect of severe weather on a tourism business.*

Application No. **16/00101/PP**

Proposal Planning permission in principle for the erection of 3 holiday lodges, a micro-hydro plant, solar panel array and associated works

Location **Stobshiel Mains  
Humbie  
East Lothian  
EH36 5PD**

Applicant Stobshiel Reservoir Limited

Per Elaine MacDonald

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

This application relates to an area of land measuring some 7,651 square metres in area (some 0.76 of a hectare) located to the north of Stobshiel Reservoir. It comprises of the main irregular shaped area of land of the site, a length of access track to the northwest of that and includes the reservoir dam and outflow. The application site occupies an isolated location in the countryside some 2.5 miles to the east of Humbie.

The application drawings indicate that the reservoir and its immediate shoreline are also in the applicant's ownership/control.

The applicant indicates that the land of the main body of the application site was formerly a quarry on the north side of Stobshiel Reservoir. However, it has been un-used for many years and the site is now over-grown with grasses, gorse, scrub, and trees.

The land of the main body of the application site slopes steeply down towards the east and south, respectively towards the reservoir outflow/spillway, and the reservoir. An existing rough grass track meanders through the main body of the site from the access gate located towards its northwest corner down to the level of the reservoir. The reservoir dam and outflow/spillway are of concrete construction. There are metal railings along the top of the reservoir dam. The length of access track located to the northwest of the main body of the site is not formally surfaced and is of compacted stone and earth construction.

The main body of the site is enclosed on its north and west boundaries by timber post and wire stock-proof fencing. A metal field gate provides access into the site at its northwest corner. The south boundary of the site is partly enclosed by timber post and wire stock-proof fencing, otherwise there is no means of enclosure of the remainder of the south boundary of the site. There is no means of enclosure of the east boundary of the main body of the site. There are no means of enclosure of the length of access track located to the northwest of the main body of the site.

The site is bounded to the south by the body of water known as Stobshiel Reservoir, to the west by agricultural grazing land, to the north by a combination of grassland, rough grass and gorse, and woodland, and to the east beyond the reservoir outflow by an area of moorland.

The nearest neighbouring residential property of Wanside is located some 35 metres away to the north of the main body of the site.

High voltage power lines cross the far western parts of the main body of the application site.

The application site is identified as being part of a priority habitat area. The application site is outwith but immediately to the west of an Area of Great Landscape Value.

By being on the northern edge of the Stobshiel Reservoir, the southern and eastern parts of the application site are within an area identified as being at high risk from fluvial flooding as identified by the Scottish Environment Protection Agency's flood maps.

Planning permission in principle is sought for the use of the site for holiday accommodation and the associated erection on the site of three holiday lodges, a micro-hydro plant, a solar panel array and associated works. The associated works comprise the erection of retaining walls, the formation of an access track, parking and a pontoon, and the erection of a canoe store, battery house and bin storage.

Indicative drawings submitted with the application show how the proposed three holiday lodges could be positioned on the site. All of the proposed three holiday lodges are indicatively shown to be located on the western half of the site. One would be positioned at the northwest end of an existing hollow area, which has a roughly level bottom surface and is bounded by rising landform to three sides. A second proposed holiday lodge would be positioned close to the west boundary of the site. The third proposed holiday lodge is indicatively shown to be positioned halfway down the sloping land of the site, roughly centrally between its east and west boundaries.

Each of the proposed three holiday lodges is indicatively shown to have a footprint of some 8.5 metres in length by some 7.5 metres in width, and to have a dual pitched roof with the roof ridge height being some 4.1 metres above ground level. Each of the proposed three holiday lodges would be provided with an external deck area and would have two parking spaces positioned alongside it. Due to the sloping and undulating

nature of the land of the site, the application drawings indicatively show how retaining walls would be erected at two of the proposed holiday lodge locations to retain the landform at those locations.

Sewage from the proposed holiday lodge buildings would discharge to a septic tank with run-off to a soakaway.

A further area of parking and the proposed bin storage area are indicatively shown to be located on a level plateau of land immediately to the east of the gated access at the northwest corner of the main body of the site.

The proposed micro-hydro plant building is indicatively shown to be positioned towards the northern end of the eastern part of the site alongside the reservoir outflow/spillway and to have a footprint measuring some 3.0 metres in length by some 2.5 metres in width.

The proposed solar panel array is indicatively shown to be installed on the south facing side of the reservoir dam and the proposed battery store is indicatively shown to be positioned immediately alongside the west side of the reservoir outflow/spillway and to have a footprint measuring some 3.5 metres in length by some 2.5 metres in width.

The application drawings indicatively show the proposed canoe storage building to be positioned on the southern part of the site towards the western end of the reservoir dam and to have a footprint measuring some 7.0 metres in length by some 3.0 metres in width. The proposed pontoon is indicatively shown to be positioned extending out onto the reservoir water from the western end of the reservoir dam.

The application drawings further indicatively show how the existing grass track that meanders through the main body of the site would be improved and surfaced to provide access to the proposed three holiday lodges and associated works.

The application site is accessed from the ZC86 public road via a stone and earth farm track measuring a total of some 1.12 miles that passes across the northern and eastern edges of the operational farm at Stobshiel Mains and which then continues through agricultural fields of that farm to the application site.

An Outline Business Plan synopsis for the proposed holiday lodge development, a document showing financial projections, and a Planning and Design Statement have been submitted with the application.

The Outline Business Plan synopsis explains that the proposal is for an 'eco-tourism' development that would be positioned discreetly on land overlooking Stobshiel Reservoir. It is explained that the intention is for the proposed holiday lodges to be well insulated and ecologically powered so that they would require no energy input from off-site sources, and it is intended that they would be of Scottish timber construction and insulated with sheep's wool. It is stated that the proposed 'eco-tourism' development would meet the aims and objectives of the East Lothian Economic Development Strategy: Strategic Objective S02. It is further explained that the intended market for the proposed 'eco-tourism' development would be families, small groups and couples who have a desire for 'experiential travel' and sustainable tourism and are seeking a beautiful and peaceful location but with easy access to local towns and activities, a base for walking, mountain biking and water based activities and an 'off-grid' holiday. The document goes on to state that it is anticipated that it would take up to 2 years to build momentum for the business through on-line and off-line advertising, and word-of-mouth. The document goes on to explain that initially the proposed business would require two part-time staff with support from other local services for housekeeping tasks. The

document states that it is anticipated that a modest loss would be made in the first year but that from year 2 onwards a modest profit is anticipated.

The financial projections document covers a period of one year (April to March) and indicates predictions of between 30% and 70% occupancy levels across the year for the proposed holiday lodges, giving an average occupancy level of 53%.

In the Planning and Design Statement, it is stated that the proposed holiday lodge development would be established as a clean energy holiday destination within the scenic setting of Stobshiel Reservoir with easy access to fishing, mountain biking, walking, golf and bird watching activities. It is explained that the development would be powered by the proposed micro-hydro plant and solar panel array, which would be discreetly located. It is further explained that the proposed business would operate throughout the calendar year, employing local people. The statement goes on to explain that from 1940 Stobshiel Reservoir was a publicly owned facility that provided for fluctuating water demand however by 2000 the infrastructure had advanced and there was no longer a requirement for it.

The Planning and Design Statement goes on to set out relevant national and local planning policies and guidance, quoting policy principles of Scottish Planning Policy June 2014 (SPP) relating to sustainable development and the creation of high quality places through a design-led approach, the South East Scotland Strategic Development Plan (SESplan), East Lothian Council's Economic Development Strategy and the adopted East Lothian Local Plan 2008.

It is the opinion of the author of the Statement that the proposed development adheres to SPP and SESplan advice as it would promote a carefully costed and researched business model that is based on the attraction and offer of a former industrial site set within a picturesque location and would bring back into use this former quarry site as a holiday destination that would contribute to the local economy whilst taking cognisance of the landscape setting. The Statement goes on to explain that the rural location of the application site is a key driver for the proposed business and its offer to visitors of accessibility to outdoor pursuits. Through the joining up of accommodation with activities, visitors will be encouraged to stay longer and spend more in East Lothian, which will have a positive impact on the local economy such as shops, cafes and restaurants. It is further stated that the proposed business would support 1.5 jobs initially with growth projections for this to increase to 2.5 jobs by years 3 - 5.

The Statement goes on to further explain that by limiting the size of the development the operational impact on neighbours will be minimal, and the design of the site and the lodges has been considered to ensure a good landscape fit.

It is the opinion of the author of the Statement that the proposed development supports East Lothian Council's Strategic Economic Development objectives and adheres to Local Plan Policies.

The Statement explains that there is limited provision of this type of ecologically sensitive holiday accommodation, which enhances the marketability of the proposed business as a unique visitor destination. It is explained that remote eco-lodges and other off-grid developments are enjoying growing success as a sustained customer base seeks to spend time in aspirational accommodation in a beautiful setting, and that the applicant is confident that their approach to pricing of the holiday lodges will be both competitive and attractive. The Statement goes on to explain that the proposed holiday lodges would in time be supplemented by the use of the reservoir for water activities (i.e. fishing, canoeing, etc). The Statement further states that the proposed holiday lodges would be single storey in height, of timber construction with a sedum roof, and that the 'green' roofs



would contribute to the rural setting and provide additional insulation as well as add to the bio-diversity of the site. It is further explained that the rugged landscape of the site would be maintained and that this along with the 'green' roofs of the proposed holiday lodges would help to minimise any visual impact of the buildings whilst maximising privacy and rural character for visitors.

Since the application was registered the proposed development has been amended to:

(i) reduce the number of proposed holiday lodges from 4 to 3 following concerns raised by the Scottish Environment Protection Agency (SEPA) and the Council's Flood Prevention Officers on flood risk grounds;

(ii) change the indicative positions and reduce the indicative footprint size of each of the remaining proposed three holiday lodges;

(iii) correct an error on the indicative photo-montage relating to the position of the proposed micro-hydro plant building;

(iv) provide a topographical survey of the site at the request of SEPA and the Council's Flood Prevention Officers;

(v) provide indicative drawings showing sections through the site;

(vi) provide indicative details of the positioning of proposed retaining walls;

(vii) move the proposed parking area on the northwest part of the main body of the site some 1 metre further to the west to avoid the need for a further retaining wall at the request of the Council's Landscape Officer; and

(viii) provide a photo-montage of the proposed holiday lodges in their landscape setting.

The proposed development does not constitute development of a type set out in Schedule 1 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 and nor does it meet the thresholds and criteria of development set out in Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. Thus, there is no requirement for the proposed development to be screened as development that may require the submission of an Environmental Impact Assessment (EIA).

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

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

Relevant to the determination of the application are Policy 1B (The Spatial Strategy: Development Principles) of the South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), NH3 (Important Local Biodiversity Sites), DP14 (Trees on and Adjacent to Development Sites), DP16 (Flooding), DP22 (Private Parking) and T2 (General Transport Impact) 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 East Lothian Local Development Plan (ELLDP) was thereafter modified following the Examination. At their meeting on 29 May 2018, the Council approved the ELLDP as the Local Development Plan the Council intends to adopt. The ELLDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications. Relevant Policies DC1 (Rural Diversification), DC9 (Special Landscape Areas), NH3 (Protection of Local Site and Areas), NH8 (Trees and Development) and T2 (General Transport Impact) of the ELLDP do not represent any significant alteration to the current relevant policy.

Paragraph 75 of Scottish Planning Policy: June 2014 states that the planning system should promote a pattern of development that is appropriate to the character of the particular rural area and the challenges it faces, encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality and support an integrated approach to coastal planning.

Paragraph 202 of Scottish Planning Policy: June 2014 states that the siting and design of development should take account of local landscape character.

Fourteen public representations to the application have been received. All of those representations raise objection to the proposed development and the main grounds of objection as summarised are:

1. concern about the safety of prospective customers of the proposed holiday lodge business due to the proximity to the reservoir and the steep sides of that body of water and its outflow/spillway;
2. concern about the security of the reservoir and prevention of any interference by visitors as uncontrolled releases of water from the reservoir could impact harmfully on the residential properties downstream;
3. is the reservoir properly maintained? It has been heard that there was a problem with one of the valves on the last inspection but it has not been possible to verify this. Maintenance should be up-to-date before any further investment should be allowed;
4. the public road from which the site would be accessed is narrow and has a low volume of traffic, any increased usage by visitors unfamiliar with the road could present a road safety hazard;
5. the access track between the public road and the proposed site is only suitable for 4 x 4 vehicles and can be impassable in winter months/bad weather. What would happen if visitors get stuck or are unable to traverse the track?;
6. the micro-hydro plant would require an increase in the flow of water from the reservoir, which has the potential to increase the chance of flooding to properties downstream and detrimentally impact on those properties;
7. part of the proposed development (micro-hydro plant) is shown on the photo-montage to be positioned outwith the site on neighbouring land;
8. the proposed development would be an inappropriate intensification of the site in this rural location that would inevitably introduce new liabilities on the local authority and the emergency services in the event of illness or accident at the site;
9. the reservoir site was sold by the Water Board because the medium term maintenance

costs of the dam are prohibitive and raises liability issues for the local authority which carries ultimate responsibility for the safety of the dam and the properties downstream from it;

10. the access to the application site is via a working farm track that is heavily used on a daily basis and serves all of the farm and its fields, which are used for grazing of livestock, and the proposed development would interfere with existing normal working farm operations, resulting in disruption to the farm business and potentially risks and hazards to both the farm and the visitors to the proposed development;

11. the applicant only has a right of access to the site along the existing farm track and there is no consent for use of the track by the applicant for a commercial use;

12. health and safety concerns relating to visitors and livestock (calving cows can be extremely protective and dangerous);

13. there is no statement on how the applicant would manage conflict between the visitors to the proposed development and the existing farm (i.e. gates being left open, conflict between visitors and moving livestock and machinery, etc.) and visitors may not respect the farming operation;

14. the proposed business is highly speculative and there are no guarantees that it would succeed, and if it does not succeed the proposed holiday lodges could become permanent houses which would be contrary to ELC's long held strategy to prevent new housing in the countryside;

15. how would the council prevent the holiday lodges from being occupied for longer periods of time and thus becoming effectively a family home;

16. soil works at the time of the construction of the dam do not constitute an industrial use of the site and the claim by the applicant that as a result of this the site is a brownfield site is misleading and to accept that case and to allow this form of development in this rural location would be likely to set an unwelcome precedent for similar development throughout East Lothian;

17. the proposals are inappropriate for this rural site which is not only remote but is inadequately served by a single track access lane and visitor traffic will result in significantly increased activity that will detrimentally impact on and materially change the character and location of what is a highly secluded rural site within the Lammermuir Hills;

18. any economic advantage of this development to the local economy is likely to be of negligible benefit and is entirely outweighed by the disproportionate impact it will have on the immediate vicinity and neighbouring properties;

19. the proposals amount to commercial use of the reservoir and there is a restriction on the commercial use of the reservoir;

20. if an emergency arose the lodge users would come to the nearest properties which would be the neighbouring house and the nearby farm for help causing disruption to those properties;

21. due to the condition of the access track and the isolated location of the site it would be difficult to access by emergency services if an emergency arose (i.e. a person falls into the reservoir) and furthermore the mobile phone coverage is poor to non-existent;

22. the site is isolated and dependent on private car usage as the nearest bus route is some 5 miles away;
23. the reservoir is a very deep and isolated body of water with steep banks and poses a huge risk to the safety of potential visitors;
24. given the wide variety of flora and fauna in the area the development should have an impact assessment (EIA);
25. there are no services to the site and even if the development generates its own electricity, providing other services to the site would be problematic;
26. the plan does not detail how disabled access to the development would be achieved;
27. the economic impact has been vastly overstated;
28. the proposed solar array will detract from the beauty and vista created by the reservoir dam, which is believed to be one of the first concrete dams built;
29. the dam overflowed in 1948 and SEPA should report on the suitability and safety issues of modifying the dam;
30. the proposals could impact negatively on nearby uses (i.e. Stobshiel Shoot);
31. the intensification of use of the area could result in harmful pollution and environmental impacts through over-populating the area, sewage treatment, and damage caused by visitors;
32. waste collection vehicles do not access the neighbouring house of Wanside, rather that property has to present refuse at a collection point adjacent to the public road more than one mile away so how will waste be collected from four holiday lodges; and
33. the development would result in disturbance and loss of privacy to the neighbouring property of Wanside.

One of the representations also comments that all neighbouring properties to the application site have not been notified of the planning application. Regulation 18 of The Town and Country Planning Development Management Scotland Regulations 2013 (as amended) requires that the Council as Planning Authority notify all properties within 20 metres of the boundary of an application site of the application for planning permission. Where there is no building on such neighbouring land, Regulation 18(2)(b) requires that the Planning Authority place an advertisement in accordance with Regulation 20(2)(a) in a local newspaper for the application. All neighbouring properties where there are buildings on the land within 20 metres of the application site have been notified as required by Regulation 18(2)(b). Furthermore, the application has been advertised under Regulation 20(2)(c) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended) as a form of development that would bring crowds to a generally quiet area. Thus, there is no separate requirement to also advertise the application under Regulation 20(2)(a) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended). Accordingly, the neighbour notification and the advertisement of the application has been undertaken in accordance with Regulations 18 and 20 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended).

One of the representations raises matters of land ownership relating to the application site, claiming that not all owners of the land of the application site have been formally notified as required under Section 35 of the Town and Country Planning (Scotland) Act 1997 (as amended). However, on checking the documentation submitted it was found that the representor did not own any of the land of the application site but rather had a servitude right of access across part of it. The representor confirmed acceptance of this position.

The matters raised by representations relating to the safety aspects of the proposed development are not material considerations in the determination of the application for planning permission in principle. It is not for the Planning Authority to consider whether the reservoir or rural location of the proposed holiday accommodation development would pose safety risks to visitors of the proposed development. Rather it is a matter for the operators of the proposed business to consider their responsibilities as operators of the site.

The applicant is not promoting the development of a commercial water sports business use at the reservoir through this application. Thus, whether or not the site is suitable for such use is not a material consideration in the determination of this application for planning permission in principle.

Humbie, East and West Saltoun and Bolton Community Council, as a consultee to the application, raise objection to the proposed development and their grounds of objection as summarised are:

1. Lack of appropriate site access - the rough farm track along which access would be taken is not suitable for cars, and whilst it is a right of way for walkers it is not a public road for vehicles. It is understood that while the owners of the site do have a right of access to their land it does not extend to access for commercial purposes. Does this mean that visitors to the proposed holiday lodges would have to access the site by foot and that delivery/service vehicles could also not access the site? Furthermore, the isolated location means the site is subject to extreme weather making the area potentially unsuitable for casual visitors and increasing demand on emergency services.

2. Inappropriate and unsafe development site - the reservoir with its steep sides is not a safe location for casual visitors and as such to promote the site as suitable for water-sports is highly inappropriate and will carry significant risk to users and potentially increase demand on emergency services. Furthermore, it is essential that residents downstream are protected from visitors tampering with the reservoir structures and outflow.

3. Potential negative impact on neighbouring business - visitors unfamiliar with farming operations and bio-security issues could put the surrounding farm businesses at risk and significantly disrupt the day to day operation of those businesses.

4. The proposal does not comply with Planning Policy DC1 - whilst it may be appropriate to attract tourism business to the East Lothian countryside, proposed development should also be integrated into its landscape setting, have no adverse impact on neighbouring uses, be suitably accessed and served by infrastructure. As noted earlier, the proposed development would not comply with these policy principles and would be incompatible with existing neighbouring uses.

5. Concerns about the viability of the venture and if the Council is minded to grant permission it should seek to control the occupancy of the proposed lodges and should seek to secure a bond of sufficient value to finance the cost of returning the site to its

existing rural state in the event that the business fails.

The adopted East Lothian Local Plan 2008 recognises that East Lothian is an important tourism destination. The Local Plan's policies and proposals seek to ensure that a balance is found between the encouragement of tourism and the economic benefits it provides, and the protection of, for example, important landscape and nature conservation interests.

By being in the countryside the application site is covered by Policy DC1 of the adopted East Lothian Local Plan 2008.

Policy DC1 supports the principle of tourism and leisure development within the countryside of East Lothian provided it has a clear operational requirement for a countryside location which cannot reasonably be accommodated within an existing urban or allocated area.

The proposed development is for the erection of three holiday lodges as an ecologically sensitive holiday accommodation development with target customers being those that are interested in outdoor activities and 'off-grid' destinations. The supporting statements submitted with the application note that East Lothian is a very desirable holiday destination whilst being in close proximity to Edinburgh City Centre. It is explained that the applicant's research has shown that there is a lack of self-catering accommodation of this type of 'green' off-grid accommodation in the locality.

It is further stated that the proposed holiday lodge development would utilise locally sourced and 'green' materials, would employ local people and as such would contribute to the local economy, and that the development has been sensitively designed so as to have the best fit into the surrounding landscape which would be an important element in attracting visitors.

The indicative details submitted with the application indicate that the proposed holiday lodges would have a simple rectangular footprint and would provide 1, 2, or 3 bedroom accommodation with associated lounge/kitchen and bathroom spaces. Each of the indicatively shown proposed three holiday lodges are shown to have a floor area of some 37.5 square metres. At such size, and at a maximum roof ridge height of some 4.1 metres above ground level, they would be of a modest scale.

The use of the proposed three indicatively shown holiday lodge buildings as holiday letting accommodation is a tourism and leisure use. They would serve to provide accommodation for tourists wishing to benefit from a stay in the East Lothian countryside. They would be within easy reach of many of the tourism and leisure attractions of East Lothian. In principle, based on the nature of the proposed tourism accommodation as 'eco' and 'off-grid' accommodation seeking to provide holiday letting accommodation close to outdoor activities, there is justification for the holiday letting accommodation use in this rural location and the particular type of holiday accommodation proposed could not reasonably be accommodated within an existing urban or allocated area. Furthermore, by its small scale of operation the holiday accommodation use of the site and thus of the proposed three indicatively shown holiday lodge buildings is of a scale and character appropriate to its countryside location. It is not unreasonable to assume that such development would be likely, in turn, to positively contribute towards the tourist industry of East Lothian.

The Council's Economic Development Service advises that the indicatively shown proposed holiday accommodation development would support objective 2 of the East Lothian Economic Development Strategy 2012 – 2022, which is for East Lothian to be

Scotland's leading tourism destination. The Economic Development Service also advise that there is an identified demand for good quality accommodation in East Lothian and that findings from the annual visitor survey (2015) indicate that visitors are looking for short breaks to enjoy the outdoors/countryside. Thus, in principle, the proposed 'eco-lodge' holiday accommodation development at the application site would contribute to meeting this identified demand.

The Economic Development Service further comment that current data available would point to the proposed holiday accommodation development finding a market for its proposed product offering however levels of occupancy would take time to develop and establish, and in this context marketing of the site and identifying the visitor segment would be fundamental to establishing the proposed business.

In conclusion, the Economic Development Service advise that, based on the contribution to meeting the strategic aims and objectives of the Economic Development Strategy 2012 - 2022 of local job creation and East Lothian being a leading coastal destination, the principle of the proposed holiday accommodation development would not be contrary to East Lothian Council's Economic Development Strategy 2012 - 2022.

Although the indicatively shown proposed holiday lodge accommodation is promoted as holiday letting accommodation, each of the proposed holiday lodges would nevertheless be capable of being used as a house. It would not be appropriate for such development to be occupied as a separate permanent independent residential accommodation (i.e. a house). As units of holiday letting accommodation, the principle of the use of the indicatively shown proposed three holiday lodges as holiday accommodation would be consistent with development plan policy. However, if they were each to be used as a house without a clear operational requirement for a countryside location that cannot be reasonably accommodated within an existing urban or allocated area the proposed three holiday lodges would be unacceptable and contrary to Policy DC1 of the adopted East Lothian Local Plan 2008. However, the proposed three holiday lodges are not promoted for use as house(s). Rather they are promoted for use as holiday letting accommodation. In their use as holiday letting accommodation the people occupying them would only be staying for relatively short periods of time.

Therefore, if planning permission in principle is to be granted for the principle of use of the proposed holiday lodges then to prevent the indicatively shown proposed three holiday lodges from being used as separate permanent independent residential accommodation, the occupation of them should be restricted solely to short term lets of not more than 28 days and the holiday letting accommodation in the form of the proposed holiday lodges should not be re-let to the party who last occupied it anytime within a period of two months after that previous time of occupancy. This control could be imposed as a condition attached to a grant of planning permission in principle. This would have the effect of safeguarding the purpose and integrity of the Council's policies for the control of new build housing development in the countryside.

Thus, subject to an appropriate occupancy control, for the reasons set out above there is an operational requirement for the proposed holiday accommodation in its proposed countryside location and the principle of the use of the application site for the proposed holiday accommodation use and the erection of the indicatively shown proposed three holiday lodge buildings on the site in this countryside location does not conflict with Policy DC1 of the adopted East Lothian Local Plan 2008.

Part 5 of Policy DC1 of the East Lothian Local Plan 2008 requires that having regard to its nature and scale, new development must be integrated into the landscape, reflect its character and quality of place and be compatible with its surroundings. New

development must be sited so as to minimise visual intrusion and landscape impact and should not have a significant adverse impact on nearby uses.

If the proposed holiday accommodation is marketed as being within its rural isolated location and in the direct setting of agricultural operations, and if it is managed appropriately by the applicant/developer, there is nothing to suggest that the proposed holiday accommodation use could not co-exist alongside the existing agricultural farming uses without significant conflict. Thus, the principle of the proposed holiday accommodation use would not have a significant adverse impact on nearby existing farm uses.

The application site benefits from an established landscape of trees and self-seeded scrub and gorse. The application site is outwith but adjacent to an Area of Great Landscape Value.

The indicatively proposed site layout shows how three holiday lodge buildings could be accommodated on the site. Due to the sloping and undulating nature of the application site, the land at the location of two of the indicatively shown proposed holiday lodge buildings would require to be excavated to create a level plateau in order to allow those proposed two holiday lodge buildings to be set down into the site. The third indicatively shown proposed holiday lodge building would be positioned on an existing level plateau of land in an existing hollowed area of the site. Other than for this excavation and the improvement of the existing access track of the main body of the site, the supporting statements submitted with the application indicate that the vegetation of the site would be retained and maintained in order to retain the rugged landscape character of the site.

By their single storey height and their other physical dimensions, the indicatively shown proposed three holiday lodge buildings are relatively modest in size and massing. Furthermore, the indicatively shown finishes of timber walls and 'green' sedum roofs for the indicatively shown proposed three holiday lodge buildings would be appropriate to their landscape setting.

Although in a remote isolated countryside location, the indicatively shown proposed three holiday lodge buildings would be visible in views from surrounding land. The predominant views of the indicatively shown proposed three holiday lodge buildings would be from the private access road to the site and from longer views within the surrounding countryside. However, by being set down into the sloping land of the site and by their low single storey height, physical dimensions and external finishes, and by virtue of the limited removal of the vegetation on the site, the indicatively shown proposed three holiday lodge buildings would be well integrated into the landscape of the site and would be separated by existing tree and scrub planting. These design details can be made a principle of development of a grant of planning permission in principle. If so and if appropriately designed and not significantly larger or higher than indicatively shown, the proposed holiday lodges would have a minimal visual impact and would not appear as harmfully intrusive, incongruous or exposed features within their landscape setting, would not be harmful to the landscape character and visual amenity of the area or the character and appearance of the adjacent Area of Great Landscape Value.

The indicatively shown associated buildings of the canoe storage, battery house and micro-hydro plant buildings would be small in size and scale. If restricted to being single storey in height and being finished with materials and colours appropriate to their rural location, although they would be visible in public views of the site, with the rising land-form of the site as their backdrop, they would not appear visually dominant within their setting. These design details can be made a principle of development of a grant of planning permission in principle. If so and if appropriately designed and if those



buildings were not significantly larger or higher than indicatively shown, the proposed canoe storage, battery house and micro-hydro plant buildings would have a minimal visual impact and would not appear as harmfully intrusive, incongruous or exposed features within their landscape setting, would not be harmful to the landscape character and visual amenity of the area or the character and appearance of the adjacent Area of Great Landscape Value.

It should be possible to design the indicatively shown pontoon, bin storage area, parking area and access track in a manner that would be appropriate to the countryside location of the site such that those elements of the indicatively shown proposed holiday lodge development would not appear harmfully dominant, intrusive or incongruous within their landscape setting and would not be harmful to the landscape character of the area or the character and appearance of the adjacent Area of Great Landscape Value.

Moreover, other than for the excavations at the positions of each of the indicatively shown proposed three holiday lodge buildings, and at the locations of each of the three indicatively shown associated buildings of the canoe storage, battery house and micro-hydro plant building, the location of the bin storage area and parking, and the alterations to the track on the main body of the site, the supporting statements indicate that there would be limited vegetation removed from the site and supplementary planting would be carried out. Once that supplementary planting becomes established, it would further help to integrate the proposed development into its landscape setting. The requirement for limited vegetation removal and for additional landscape planting of the site could be made a design criteria of a grant of planning permission in principle.

Subject to the proposed holiday lodge development being limited to the three indicatively proposed holiday lodge buildings and associated works, which would limit the areas of the site that would be clear of vegetation, and there being appropriate landscaping of the site, it should be possible to develop the site for holiday lodge accommodation whilst retaining its rugged landscape character.

The Council's Landscape Officer (Policy and Projects) notes that the site is well contained in a remote area of East Lothian but is visible from the hills to the south where walkers would have a view down onto the site. The Landscape Officer advises that, given the scale of the landscape, if developed in the manner shown on the indicative drawings submitted with the application, and if the proposed holiday accommodation buildings were to be well-designed timber clad buildings, no more than single storey in height with shallow or single pitched roofs clad with either a dark coloured or 'green' surface finish (sedum or turf), this would significantly reduce any visual impact and retain a more natural landscape setting alongside the reservoir. Thus, subject to controls on their height, size and external finish, details that could be controlled as design principles of a grant of planning permission in principle, the indicatively shown holiday lodge buildings would have minimal impact on the landscape character of the area. The Landscape Officer further recommends that the indicatively shown micro-hydro plant building should be coloured a 'moss green' or 'grey' colour rather than 'green' so as to blend better with the colours of its landscape setting.

The Landscape Officer goes on to recommend that the existing established landscape of trees, self-seeded scrub and gorse should be retained as much as possible to provide an established setting and shelter for the indicatively shown proposed holiday lodge buildings, and that a scheme of landscape planting for the site is submitted to detail the replacement of areas of vegetation required to be removed during construction and to screen the bin storage, car parking areas and retaining walls on the main body of the site in wider landscape views.

The Landscape Officer raises some concerns about whether a sedum roof would be successful in this location. However, she does not object to the use of sedum but suggests that the use of a turf roof may be more suitable and may be more easily established.

Subject to the recommended controls and controls relating to the height, size and finishes of the buildings, the Council's Landscape Officer is satisfied that the principle of the proposed development of the site for holiday lodge accommodation would not be harmful to the landscape character of the area or the character and appearance of the nearby Area of Great Landscape Value.

The application site is not actively used as agricultural land. Rather it is an unused and overgrown area of rough grass and scrub. Thus, the indicatively shown holiday lodge accommodation buildings and associated buildings and works would not result in a significant or unacceptable loss of agricultural land. The remaining areas of the countryside land within the site would be retained with their established landscaping in order to retain the established landscape setting of the site. Thus, the principle of the proposed development of the site for holiday accommodation in the manner indicatively shown would not conflict with the requirement of Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008 that development must minimise the loss of prime agricultural land.

The indicatively shown holiday lodge accommodation use of the site would be of a scale and character appropriate to its countryside location, would be sufficiently integrated into the landscape and would be compatible with its surroundings. Subject to the aforementioned planning controls, it would not be harmful to the character and appearance of this part of the East Lothian countryside.

The application site is accessed from the ZC86 public road via a stone and earth farm track measuring a total of some 1.12 miles in length, which passes across the northern and eastern edges of the operational farm at Stobshiel House and which then continues through agricultural fields to the application site.

The Council's Road Services raise no objection to the principle of the holiday accommodation development of the site, subject to the junction of the private farm access road with the public road being hard formed over the first 5 metres of it measured back from the edge of the public road and across its full width in order to prevent loose materials being brought onto the public road on vehicle tyres. The applicant's agent has been made aware of this requirement. Subject to the requirement for the hard-surfacing of the first 5 metres of the access onto the public road, the Council's Road Services are satisfied that the proposed holiday accommodation development could be provided with a satisfactory means of vehicular access and a sufficient provision of on-site parking.

The fact that the applicant/developer does not own the farm access track along which access to the site from the public road would be taken is not a material consideration in the determination of this application for planning permission in principle. It is a civil legal matter between the applicant/developer and the owner of that access track. Furthermore, it would be for the applicant to establish whether their right of access along that farm access track would allow for the commercial traffic associated with the proposed business use and if it does not to seek to negotiate a right of access for such use. Again, this is a civil legal matter between the applicant/developer and the owner of that access track.

The nearest neighbouring residential property of Wanside is located some 35 metres away to the north of the main body of the site. At its closest point the access track to the

site is some 18 metres away from that neighbouring property.

At such distance it should be possible to design a holiday accommodation development of the site that would not give rise to a harmful loss of daylight or sunlight to that neighbouring property and therefore would not on this consideration have a harmful affect on the residential amenity of that property. In turn, the indicatively shown proposed holiday lodge buildings would receive a sufficient amount of sunlight and daylight.

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

There are no nearby residential properties to the east, south and west of the site. The nearest neighbouring residential property of Wanside is located some 35 metres away to the north of the main body of the site and at its closest point the access track that would serve the site is some 18 metres away from that neighbouring property. At such distances, it should be possible to design the holiday accommodation development so that it would not result in any harmful overlooking of the existing neighbouring house of Wanside and its garden ground. Thus, the principle of the development of the site for holiday accommodation would not result in harmful impact on the amenity of any neighbouring residential properties.

On these matters of privacy and amenity the principle of the development of the site for holiday accommodation does not conflict with Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Services advises they have no comment to make regarding the principle of the development of the site for holiday accommodation.

The Council's Contaminated Land Officer (Environmental Protection) advises that due to the previous use of the land as the construction site for the reservoir dam, there is the potential for contamination of soils on the site. He recommends that a condition be imposed on a grant of planning permission in principle to ensure that if the presence of any previously unsuspected or unforeseen contamination becomes evident during the development of the site it shall be brought to the Council's attention. This matter could be controlled by a condition attached to a grant of planning permission in principle.

The Council's Waste Services advise that any waste collection from the site would be classed as trade waste which is chargeable, and the applicant could make private arrangements for such waste collections. The Council's Waste Services provided advice on the nature of the refuse and recycling bins that would be required for the proposed development and advised that for the Council to provide such collections the access track from the public road would be required to be constructed to and maintained to an adoptable standard. This information along with the Council's guidance document on waste services provision was forwarded the to the applicant's agent for their information.

The Council's Biodiversity Officer is satisfied that the proposed development would not harm the natural heritage interest of the priority habitat area and raises no objection to the principle of the proposed holiday accommodation development of the site on biodiversity grounds.

By being on the northern edge of the Stobshiel Reservoir, the southern and eastern parts of the application site are within an area identified as being at high risk from fluvial flooding as identified by the Scottish Environment Protection Agency flood maps.

In their initial consultation, the Scottish Environment Protection Agency (SEPA) raise objection to the principle of the proposed holiday accommodation development of the site on the grounds of lack of information on flood risk, surface water drainage and the potential impact on the water environment. SEPA further advise that it would be necessary to demonstrate that the proposed solar panel array would not have a detrimental impact on the structural integrity of the reservoir and that the solar panels would comply with the Reservoirs (Scotland) Act 2011 and the current CAR licence.

SEPA also highlighted that further consent through the Water Environment Controlled Activities (Scotland) Regulations 2011 (as amended) (CAR) is required for the private foul drainage and surface water arrangements.

The applicant's agent subsequently submitted additional topographical information and removed a fourth holiday lodge from the southeast part of the main body of the site.

SEPA subsequently removed their objection to the principle of the proposed holiday accommodation development of the site in the manner shown on the indicatively application drawings following the removal of a fourth indicatively shown holiday lodge building from the southeast part of the site. SEPA recommend that the indicatively shown proposed micro-hydro plant building should be designed to incorporate flood resistant and resilient measures to limit the potential damage during high flows.

SEPA notes that the holiday lodges would be located immediately adjacent to the spillway structure and highlight that there could be considerable noise when the spillway is overtopped. However, SEPA note that this is not within their remit, but rather is for the Planning Authority to consider in its determination of the application. As set out above, the Council's Environmental Protection Service have no comment to make on the principle of the proposed development.

In their initial consultation, the Council's Structures, Flooding and Street Lighting Team Manager advises that they concur with SEPA's initial comments and that further information regarding floor levels and SUDs provision is required. The Council's Structures, Flooding and Street Lighting Team Manager subsequently removed their objection to the principle of the holiday accommodation development of the site in the manner shown on the indicative application drawings being satisfied that the indicatively shown development would not be negatively impacted by flooding and would not have a detrimental impact on the management of flood waters in the locality.

It is not for the Council as Planning Authority to consider if the proposed indicatively shown holiday accommodation development of the site would comply with CAR requirements. The applicant's agent has been made aware of the requirement to ascertain this separate consent.

On all of the above considerations, subject to the aforementioned planning controls, the principle of the development of the site for holiday accommodation in the manner indicatively shown do not conflict with Policies 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1, NH3, DP14, DP16, DP22 and T2 of the adopted East Lothian Local Plan 2008.

Scottish Water have been consulted on the application however no response has been received from them.

## CONDITIONS:

1 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of the 3 holiday lodges, the micro-hydro plant building, the battery house building, the canoe storage building, the pontoon, the bin storage area, the parking areas, retaining walls, access track, the means of access to them, the means of any enclosure of the boundaries of the site and the landscaping of the site and those details shall generally accord with the indicative details of the drawings docketed to this planning permission in principle, and those details shall accord with the following principles of development for the site:

- a. there shall be no more than three holiday lodge buildings erected on the site;
- b. the holiday lodge buildings shall be no higher than single storey in height with shallow dual pitched, shallow mono-pitched or flat roofs, and with a footprint not significantly greater than is indicatively shown on the drawings docketed to this planning permission in principle;
- c. the holiday lodge buildings shall be located on the site in positions not significantly different than is indicatively shown on the drawings docketed to this planning permission in principle;
- d. the walls of the holiday lodge buildings shall be finished in timber and their roofs shall be finished with sedum or turf;
- e. the design and construction details of the retaining walls shall be submitted for the prior approval of the Planning Authority and screen planting of the visible areas of the retaining walls or planting of the faces of retaining walls shall be included;
- f. the detailed design and finishes of the micro-hydro plant, battery store and canoe store buildings shall be shown;
- g. the detailed design and finishes of the pontoon and bin enclosure shall be shown;
- h. the detailed design and installation of the solar panel array shall be shown;
- i. the detailed construction and surfacing of the access track and parking of the main body of the site shall be shown;
- j. any means of enclosure of the boundaries of the site shall be shown;
- k. the holiday lodges shall be provided with a parking provision to meet the Council's parking standards and those parking spaces shall each have minimum dimensions of 2.5 metres by 5 metres;
- l. the vehicular access with the ZC86 public road shall be hard formed over the full width and the first 5 metres of its length back from its junction with that road;
- m. details of the treatment of surface water runoff by sustainable drainage systems (SUDS) shall be shown;

The details to be submitted shall also include a timetable for the implementation of requirements i, k, l and m above, and thereafter the development shall be carried out in accordance with the details and timetable so approved unless otherwise approved in writing by the Planning Authority.

### Reason:

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

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

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

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site

and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and

c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

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

- 3 The occupation of the holiday letting accommodation use hereby approved shall be restricted solely to short term lets of not more than 28 days. The holiday letting accommodation units shall not be re-let to the party/parties who last occupied it anytime within a period of two months following the date on which the previous time of occupancy ends.

Reason:

To restrict the holiday letting use of the buildings to that applied for and in the interests of safeguarding the Council's policy for new build housing in the countryside.

- 4 In the event of the presence of any previously unsuspected or unforeseen contamination of the land on the application site being found, during development, details of such unsuspected or unforeseen contamination of the land shall be brought to the attention of the Planning Authority and development of the site shall not begin, or shall cease to continue, until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. If investigations establish that remedial measures are required, any remedial measures as required shall be fully implemented prior to any use being made of the site for the holiday accommodation development hereby approved, unless otherwise approved in writing by the Planning Authority.

Reasons:

To ensure that the site is clear of contamination prior to the use of the holiday accommodation development.

- 5 Other than for the erection of the indicatively shown three holiday lodge buildings and their associated retaining walls, the micro-hydro plant building, the battery house building, the canoe storage building, the bin storage area, parking and access track the trees, scrub and vegetation of the site shall be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure minimal landscape and visual impact of the built structures of the holiday accommodation development hereby approved within the wider landscape setting.

- 6 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837: 2012 "Trees in relation to design, demolition and construction" has been installed and confirmed in writing by the Planning Authority. The temporary protective fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site intact through to completion of development. The position of this fencing must be indicated on a site plan that shall be submitted to and approved in advance in writing by the Planning Authority prior to the commencement of works on the site, and the fencing shall be positioned, outside the Root Protection Area (RPA) as defined by BS5837: 2012 for all trees to be retained on the site.

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

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

Planning of site operations shall take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees.

Details of any trenches or services in the fenced off areas shall require the prior consent of the

Planning Authority and all trenches shall be dug and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unservered.

The only construction access to the site shall be taken along the line of the existing access tracks.

Reason:

To ensure minimal landscape and visual impact of the built structures of the holiday accommodation development hereby approved within the wider landscape setting.

- 7 A scheme of landscaping for the site shall be submitted to and approved in writing by the Planning Authority prior to the commencement of works on the site. The scheme of landscaping shall provide details of: the height and slopes of any mounding on or recontouring of the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme of landscaping shall include indications of all existing trees and scrub on the land of the site, details of any to be retained and measures for their protection in the course of the development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following completion of the development or the commencement of use of the holiday lodge accommodation hereby approved, whichever is the sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless otherwise the Planning Authority gives written consent to any variation.

Reason:

To ensure minimal landscape and visual impact of the built structures of the holiday accommodation development hereby approved within the wider landscape setting.

*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)*