



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

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

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 J 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