

**PLANNING COMMITTEE**

**21 AUGUST 2018**

**PUBLIC DOCUMENT PACK**





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

**TUESDAY 26 JUNE 2018  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

**1**

**Committee Members Present:**

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

**Council Officials Present:**

Mr I McFarlane, Service Manager – Planning  
Mr C Grilli, Service Manager – Legal and Procurement  
Mr D Irving, Senior Planner  
Ms S McQueen, Planner  
Mr M Greenshields, Senior Roads Officer  
Ms M Haddow, Transportation Planning Officer  
Ms P Bristow, Communications Officer  
Mr J Allan, Planning Technician

**Clerk:**

Ms A Smith

**Visitors Present/Addressing the Committee:**

Item 2 – Mr D Neave, Mr J Dillon  
Item 4 – Mr J O'Loughlin, Mr M O'Loughlin, Ms M Curle, Mr G Pate, Mr A Beck

**Apologies:**

Councillor S Kempson

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 5 JUNE 2018**

The minutes of the meeting of the Planning Committee of 5 June 2018 were approved.

**2. PLANNING APPLICATION NO. 18/00422/PM: 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 AT FENTON GAIT EAST, GULLANE**

A report was submitted in relation to Planning Application No. 18/00422/PM. Daryth Irving, Senior Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Councillor O'Donnell asked if the Council would be able to progress with a Compulsory Purchase Order as regards the verge so that a safe route to school could be established. Mr Irving advised that Road Services were satisfied that the public road provided a safe route to school so the footpath link was not deemed necessary.

Douglas Neave, resident of Muirfield Steading, spoke in favour of the application, asking the Committee to support the officer's recommendation to grant consent.

John Dillon, President of Muirfield Steading Residents' Association, also speaking in favour of the application, reiterated a request for Members to support the report recommendation.

Local Member Councillor Findlay commended the residents of Muirfield Steading for their steadfast pursuit of their rights. He would be supporting the recommendation in the report.

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

For: 11  
Against: 0  
Abstentions: 0

**Decision**

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

1. 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 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.

**3. PLANNING APPLICATION NO. 17/00767/PM: 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 AT WEST TO EAST OF NORTH BERWICK SHORELINE, NORTH BERWICK**

A report was submitted in relation to Planning Application No. 17/00767/PM. Stephanie McQueen, Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Ms McQueen responded to questions from Members. She provided further details regarding the proposed refurbishments. She clarified that access to the beach would only be affected during the refurbishment period. She also answered queries on the life span of sandbags.



Local Member Councillor Findlay indicated he would be supporting the recommendation.

Councillor McMillan commended the North Berwick Golf Club for their impressive refurbishment proposal; he would be supporting the report recommendation.

Councillor Currie expressed his support for the application. It was important this work was done and also monitored; coastal erosion was a significant issue.

The Convener ended the discussion. He referred to coastal erosion around the East Lothian coastline, remarking that further applications of this type may be forthcoming. He would be supporting the recommendation set out in the report to grant planning permission.

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

For: 11

Against: 0

Abstentions: 0

### **Decision**

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

- 1 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.

**4. PLANNING APPLICATION NO. 16/00101/PP: PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF 3 HOLIDAY LODGES, A MICRO-HYDRO PLANT, SOLAR PANEL ARRAY AND ASSOCIATED WORKS AT STOBSHIEL MAINS, HUMBIE**

A report was submitted in relation to Planning Application No. 16/00101PP. Ms McQueen presented the report, summarising the key points. She informed Members of a correction on page 48 of the report (5<sup>th</sup> paragraph) - Stobshiel House should read Stobshiel Mains. The proposed decision set out in the report was to grant consent.

Ms McQueen responded to questions. She clarified the route of the access track through the farmyard and fields. She confirmed that the nearest shop was in Humbie, 15 minutes from the site. In relation to right of access, this was a civil legal matter between the applicant and owner of the access track. As regards number of bedrooms in the holiday lodges, she advised that exact numbers had yet to be provided.

Joe O'Loughlin, the applicant, informed Members that micro-hydroelectric scheme income would not cover the dam maintenance costs. A number of possible revenue streams had been researched and the development proposed was the one most likely to succeed. The intention was to develop off-grid sustainable tourism, to attract cyclists, walkers and other low impact tourists. The holiday lodge design would merge well with the environment.

Mr O'Loughlin responded to questions. Regarding estimated vehicle journeys, he said that as this was a new business he was not able to gauge this but as an off-grid development restricting journeys and perhaps parking off-site would be looked at. He clarified that the proprietors were required to maintain inspections and the fabric of the dam as stipulated in the last inspection report. He confirmed that the micro-hydro plant was not viable without the enabling part of the development, i.e. the holiday lodges. This was the only income generating opportunity. Michael O'Loughlin, co-applicant, gave further details in respect of the micro-hydro scheme. This would be the only power for the site, it was of an innovative nature, output would vary depending on demand and the flow would be controlled.

Mairi Curle, resident of Wanside Cottage, the nearest residential property, which was entirely off-grid, spoke against the application. This development would change the surroundings of this rural area dramatically. As the nearest property they would become the first responders by default; this was unacceptable. The ambulance service would not use this track; the only emergency access was by helicopter. Mobile phone signal in the area was unpredictable. Lodge visitors would have to arrive/leave by car; the track was not suitable for standard vehicles. The track could be unusable during bad weather even for 4x4 vehicles. She also raised issues about the impact from vehicle headlights and noise disturbance.

Responding to questions Ms Curle clarified that the noise and light intrusion remarks were her opinion. Regarding visitors to her property, she collected them in her 4x4 vehicle from a pre-designated point; parking had been arranged with the farmer's permission.

George Pate, of Stobshiel Mains farm, spoke against the application. The farm was a livestock-rearing farm, one of the largest and best known in the county. The main and only access track to the development was through the farmyard and fields. This was a working farm track, heavily used on a daily basis. Holidaymakers would inevitably approach the farm steading; this would interfere with farm operations. He outlined potential risks including health and safety concerns as regards visitors and livestock and visitors not respecting the farming operation. There was no information about how conflict would be managed. This proposal would have a huge adverse impact on the farm operation. Independent advice had been taken and under planning law, user conflict was a material consideration.

Mr Pate responded to questions in relation to potential costs for additional maintenance that may be required as a result of the development.

Al Beck, representing Humbie, East and West Saltoun and Bolton Community Council, spoke against the application. This proposal would harm the character of the area; it was a beautiful spot but severely restricted by its typography. The surrounding farmland would be perceived as part of the holiday area; visitors would move amongst the livestock, safety implications. The access was a constantly used farm track, not suitable for cars and use by holidaymakers would have a significant impact on the farm business. No on-site support was planned so neighbours would have to deal with any issues, becoming de-facto first responders. He gave details of potential number of vehicle movements associated with the proposal. He referred to the Local Development Plan, section 5.1, stating there were substantial grounds for refusal. He reiterated that the proposal would impact massively on the farm operation and on Wanside Cottage.

Mr Beck responded to questions in respect of his calculation of the number of car journeys and assumptions as regards visitor behaviour.

Local Member Councillor McMillan referred to the site visit stating this area was unique; the view was remarkable. He quoted from the Local Development Plan as regards new rural development. Members had heard very cogent arguments about why this proposal may not be sustainable. The detrimental effect on the farm and nearby cottage had been outlined.

The proposal was incongruous; it was not right in its setting, it would be detrimental to a unique site. He referred to the access problems. This proposal would cause damage to an existing quality business. He would not be supporting the report recommendation.

Local Member Councillor Small expressed concerns about the access track. He raised a number of issues around this including lodge visitor traffic, emergency vehicle situation, farm vehicles and other non-farm traffic. He would not be supporting the application.

Councillor O'Donnell indicated that various statutory consultees were satisfied with the proposal. It would provide opportunity for economic growth. It was in keeping with Policy DC1. She was not convinced by the presumption put forward that holidaymakers would behave irresponsibly. She also disagreed with the estimated number of daily vehicle trips to/from the holiday lodges. She would be supporting the application.

Councillor Currie stated that locations like these were precious. The impact of the proposal was not acceptable; it would have an adverse impact on the farm and the residential property of Wanside. The purpose of the application was income generation to maintain the dam. He agreed with Local Members. He would not be supporting the application.

Councillor Findlay remarked that the access track was not suitable for the amount of traffic that would be generated by this proposal. The adverse impact on Stobshiel Mains farm and Wanside Cottage was not acceptable. He would not be supporting the application.

The Convener ended the discussion. He noted the objectors' comments however, people already visited this area and many other rural areas; the East Lothian countryside was attracting an increasing number of people. The proposal was acceptable and met the relevant policies. The impact would be minimal. The Council consultees had not objected. He would be supporting the recommendation in the report to grant planning permission.

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

For: 5  
Against: 6  
Abstentions: 0

**Decision**

The Committee agreed to refuse planning permission for the following reasons:

- 1 The impact of vehicle movements to and from the proposed development would have an unacceptable impact on the operational requirements of the farm the access road service and in this would be contrary to Policy DC1 of the adopted East Lothian Local Plan 2008.
- 2 The proposed development would result in an incongruous form of development in the landscape, also contrary to Policy DC1 of the adopted East Lothian Local Plan 2008.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 21 August 2018  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

**2**

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Application No. **16/00671/PPM**

Proposal Planning permission in principle for mixed use of development consisting of residential and commercial use with associated drainage infrastructure, roads and landscape works

Location **Land to North of Haddington Road  
Kingslaw  
Tranent  
East Lothian**

Applicant BDW Trading & Co Operative Group Ltd

Per EMA Architecture & Design

RECOMMENDATION Application Refused

#### PLANNING ASSESSMENT

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

As a statutory requirement of major development type proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 16/00002/PAN) and thus of community consultation prior to this application for planning permission in principle being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that some 30 people attended the pre-application public exhibition, which was held on the 13 April 2016 at the Tranent Loch Centre, Well Wynd, Tranent, and that those attendees made a number of queries and suggestions regarding the proposals. The development for which planning permission in principle is

now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

The application site is an area of agricultural land on the eastern edge of Tranent. It is some 4.5 hectares in area. The site is within the battlefield site of the Battle of Prestonpans that is included in Historic Environment Scotland's Inventory of Historic Battlefields.

The site is bounded to the east by further agricultural land, to the north by a public road, to the west by the residential property of Muirpark House and a telephone exchange building and to the south by the A199 public road and by various commercial buildings and land including an Aldi store, The Original Factory Shop store, and a petrol filling station/car wash/car sales/car servicing centre premises.

Planning permission in principle is sought through this application for a mixed use development of the site comprising of a residential and business development with associated infrastructure and landscaping.

An indicative development framework plan has been submitted with the application indicating how some 116 residential units could be accommodated on the application site. It is also indicated how some 15 business units could be provided on the southwest part of the site, each comprising of some 58 square metres proving a total of some 870 square metres. The indicative illustrative masterplan also indicates how a SUDS pond could be accommodated on the southeastern part of the site and how three areas of recreational open space could be accommodated throughout the site. It is also indicated how landscape planting could be formed in the site.

The indicative development framework plan shows an access to the site could be taken from the existing roundabout from the A199 public road.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 8 June 2018 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission in principle. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

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

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

Policies 2 (Supply and Location of Employment Land), 5 (Housing Land) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Proposal BUS11 (Kingslaw, Tranent), DP1

(Landscape and Streetscape Character), DP14 (Trees on or Adjacent to Development Sites), DP17 (Art Works-Percent for Art), DP20 (Pedestrians and Cyclists), ENV7 (Scheduled Monuments and Archaeological Sites), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), C7 (Core Paths and Other Routes), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

The proposed East Lothian Local Development Plan 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 PELLDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications. Relevant proposal TT6 (Kingslaw, Tranent) and relevant policies HOU2 (Maintaining an Adequate 5-Year Effective Land Supply), HOU3 (Affordable Housing Quota), OS3 (Minimum Open Space Standard for New General Needs Housing), OS4 (Play Space Provision in new General Needs Housing Development), T1 (Development Location and Accessibility), T2 (General Transport Impact), T4 (Active Travel Routes and Core Paths as part of the Green Network), NH8 (Trees and Development), CH5 (Battlefields), DP1 (Landscape and Streetscape Character) and DEL1 (Infrastructure and Facilities Provision) of the PELLDP do not represent significant alteration to the current relevant proposal and policies.

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

It is stated in Scottish Planning Policy: June 2014 that local development plans should allocate a range of sites for business, taking account of current market demand; location, size, quality and infrastructure requirements; whether sites are serviced or serviceable within five years; the potential for a mix of uses; their accessibility to transport networks by walking, cycling and public transport and their integration with and access to existing transport networks. The allocation of such sites should be informed by relevant economic strategies and business land audits in respect of land use classes 4, 5 and 6. Business land audits should be undertaken regularly by local authorities to inform reviews of development plans, and updated more frequently if relevant. Business land audits should monitor the location, size, planning status, existing use, neighbouring land uses and any significant land use issues (e.g. underused, vacant, derelict) of sites within the existing business land supply. New sites should be identified where existing sites no longer meet current needs and market expectations. Where existing business sites are underused, for example where there has been an increase in vacancy rates, reallocation to enable a wider range of viable business or alternative uses should be considered, taking careful account of the potential impacts on existing businesses on the site.

Also material to the determination of the application are the written representations to the proposals. Two written objections have been received. Copies of the written representations are contained in a shared electronic folder to which all Members of the Committee have access.

The main grounds of objection can be summarised as follows:

\* the proposed development and access would lead to additional traffic generation that

would be too much for the local road network to cope with resulting in a road and pedestrian safety hazard;

\* the proposed development would harmfully impact on local infrastructure in terms of school and healthcare capacity and local services;

\* the application site is allocated for business use;

\* the proposed development would lead to a loss of biodiversity;

\* the proposed development would not integrate into its surroundings;

If planning permission in principle were to be granted, the details of the siting, design and external appearance of the proposed houses and business units, the landscaping of the site and the means of access to the proposed development would require the subsequent approval of the Planning Authority. Through the subsequent determination of such details in relation to Scottish Government Policy of Designing Streets and the Council's Urban Design Standards for New Housing Areas, planning control would be exercised to ensure that the built form of the development could be carried out in an acceptable way, with due regard to the need to safeguard the character and appearance of this site.

In respect of open space and play provision, the Council's Principal Amenity Officer advises that the areas of open space indicatively shown would provide sufficient areas of open space for informal recreation for the proposed development, consistent with Policy C1 of the adopted East Lothian Local Plan 2008.

Regarding formal play provision, the Principal Amenity Officer advises that it would be more beneficial to enhance the existing Muirpark APOGI (A Place of Great Importance) play area, which is on the south side of the A199 public road between the housing developments of Muirpark Road and Steading View to the southwest of the application site, with additional facilities rather than provide a new facility within the application site. The Principal Amenity Officer advises a contribution of £517 per residential unit would be required for enhancement of that existing play area to serve the proposed residential development. This contribution could be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal Agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing this appropriate developer contribution the proposal is consistent with Policy C2 of the adopted East Lothian Local Plan 2008.

The Council's Access Officer advises that the Council seeks to encourage walking and cycling as modes of transport to promote sustainable travel, improve health and wellbeing, and to maximise accessibility and social inclusion, particularly for those who do not own a car. Some parts of East Lothian are relatively well connected via roads and foot and cycle paths, including via repurposed railway routes and paths along river banks. Many of these routes are included in the Council's Core Paths Plan and its Green Network Strategy. These provide active travel options which should be enhanced in association with new development in the area to provide extensions of and connections to the active travel network.

The Access Officer further advises that Core Path 155 is located to the northwest of the application site, which provides a safe off-road path northwards leading to the wider core path and active travel network in Tranent. She continues that the proposed



housing development would require an adequate countryside path network on the edge of the town for recreational walking and cycling, and for connecting by active travel modes to and around Tranent. In this regard, the Access Officer states that in its current condition Core Path 155 could not support the increased levels of use that would be anticipated as a result of the proposed additional housing development.

Consequently the Access Offer advises of the need to upgrade Core Path 155 to a bound surface to facilitate the increased levels of use anticipated due to the proposed housing development, to ensure the path is suitable for purpose as an active travel (walking, cycling) and recreational route which is likely to be used by residents of the proposed new housing development, and to promote active travel and recreational access for the residents of the proposed development. As Core Path 155 is 600 metres long, the Access Officer confirms the cost to upgrade it to a bound surface, 2 metres wide, is £60 per linear metre. Therefore, the Access Officer advises of the need of a financial contribution from the applicant of £36,000 to upgrade Core Path 155. The required payment of this financial contribution could be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards the upgrade of Core Path 155 the proposal is consistent with Policy C7 of the adopted East Lothian Local Plan 2008.

The Council's Roads Services has considered the Transport Assessment submitted with the application and advise that traffic likely to be generated by the proposed development could be satisfactorily accommodated on the local road network.

Roads Services recommend that if planning permission in principle were to be granted the following should be made principles of development of any approval:

- \* a pedestrian footpath link be provided into the site from the north boundary of the site to provide for a pedestrian connection to Core Path 155 to the northwest;
- \* an independent road safety audit be undertaken for the proposed site access junction with the A199 public road which should include an implementation programme describing when measures identified in the audit will be provided in relation to construction of the proposed development;
- \* a swept path assessment be undertaken for the proposed site to ensure the proposed site layout can be satisfactorily accessed by refuse collection and emergency vehicles;
- \* parking for the proposed residential units be provided at a rate as set out in the East Lothian Council Standards for Development Roads – Part 5 Parking Standards;
- \* all access roads conform to East Lothian Council Standards for Development Roads in relation to roads layout and construction, footways & footpaths, parking layout and number, street lighting and traffic calming measures;
- \* vehicle accesses to private parking areas (i.e. other than driveways) 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;
- \* driveways having minimum dimensions of 6 metres by 2.5 metres and double driveways having 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;

\* within residential private parking areas the minimum dimensions of a single parking space being 2.5 metres by 5 metres and all visitor parking spaces within these areas being clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

\* 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;

\* a Green Travel Plan (GTP) be submitted and approved in consultation with Road Services. It should have particular regard to provision for walking, cycling and public transport access to and within the site, and will identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan;

\* a Construction Method Statement to minimise the impact of construction activity on the public road network be submitted to and approved by the Planning Authority prior to the commencement of development. It should recommend mitigation measures to control construction traffic and include hours of construction work; and

\* wheel washing facilities be provided and maintained in working order during the period of operation of the site.

With the imposition of conditions to secure these recommendations of Roads Services, the proposed development would not conflict with Policies DP20, T1 and T2 of the adopted East Lothian Local Plan 2008.

Transport Scotland raise no objection to the application.

The Council's Environmental Protection Manager advises that he has concerns that the use of the existing commercial units to the southwest of the application site may result in a loss of amenity to future occupiers of the proposed residential units. Therefore he recommends that a noise assessment be submitted with any future application for approval of matters specified in conditions application for the proposed development, to identify any mitigation measures to ensure the following criteria can be met:

(i) the Rating Level, LArTr, of noise emanating from the existing commercial units (when measured 3.5m from the façade of any proposed residential property) shall be no more than 5dB (A) above the background noise level, LA90T. All measurements to be made in accordance with BS 4142: 2014 "Methods for rating and assessing industrial and commercial sound; and

(ii) noise associated with the operation of any plant/equipment associated with the existing commercial units to the south/east of the site shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any proposed residential property. All measurements to be made with windows open at least 50mm.

The Council's Environmental Protection Manager additionally advises that taking into account the possible contaminative history of the application site (former mine workings/mine entries and mineral railway) a Geo-Environmental Site Investigation Report must be undertaken on the site prior to any commencement.

Conditions can be imposed to secure the above recommendations of the Environmental Health Service Manager were planning permission in principle to be granted.

In respect of landscape matters the Council's Landscape Officer advises that the landscape planting shown on the indicative development framework would not provide an acceptable landscape setting for the proposed development. Therefore the advice is that landscape planting should be undertaken along all boundaries of the site, which would help integrate the proposed development into its visually prominent setting. Although a proposed housing development on the site would be visible in longer views from the wider area, the landscape planting recommended would be sufficient to allow the proposed development to be sufficiently absorbed into its landscape setting without appearing unduly prominent. The recommendation is that a detailed landscape planting plan be submitted to and approved in advance by the Planning Authority securing such provision. This recommendation could be made a condition of a grant of planning permission in principle, subject to which it complies with Policy DP14 of the adopted East Lothian Local Plan 2008.

Historic Environment Scotland has been consulted on the application and is content that the proposed development would not have an adverse impact on the landscape characteristics of the battlefield site of the Battle of Prestonpans.

On this consideration the proposed development complies with Policy ENV7 of the adopted East Lothian Local Plan 2008, the Scottish Historic Environment Policy: December 2011 and Scottish Planning Policy: June 2014.

The Scottish Environment Protection Agency (SEPA) raises no objection to the principle of the proposed development on the grounds of potential flood risk. It does advise that a condition should be attached to any grant of planning permission in principle requiring details of the SUDS (Sustainable Drainage Systems) to be provided on site be submitted for prior approval.

Scottish Water has made no comment on the application.

As the application site is within a Coal Mining Development Referral Area the Coal Authority have been consulted on the application. A Report on Site Investigations has been submitted with the application. The Coal Authority advises that the submitted report correctly identifies that coal mining activity is recorded to have taken place beneath the application site and thus the report recommends intrusive site investigation works be undertaken to confirm coal mining conditions and to enable the implementation of any necessary mitigation measures prior to commencement of the development.

The Coal Authority recommends that should planning permission in principle be granted that intrusive investigation works be undertaken prior to the commencement of development and that in the event that the site investigations confirm the need for remedial works to treat any areas of shallow mine workings, development not begin until a scheme of remedial works on the site has been submitted to and approved in writing by the Planning Authority. This can be required by a condition of any grant of planning permission in principle.

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

The Council's Depute Chief Executive (Resources and People Services) informs that the application site is located within the school catchment areas of Sanderson's Wynd Primary and Nursery School, St Martin's RC Primary School and Ross High School.

He advises that Sanderson's Wynd Primary and Nursery School and Ross High School do not have sufficient capacity to accommodate children that could arise from the proposed development. Thus he objects to the application on the grounds of lack of permanent capacity at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of £510,052 towards the provision of additional nursery accommodation at Sanderson's Wynd Primary and Nursery School (£4,397 per unit) and a contribution of £546,244 (£4,709 per unit) towards the provision of additional school accommodation at Ross High School.

The required payment of a financial contribution of a total of £1,056,296 towards the provision of additional accommodation at Sanderson's Wynd Primary and Nursery School and Ross High School could be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made.

The Council's Economic Development & Strategic Investment Manager advises that a grant of planning permission in principle would require to be subject to provision of 25% of all housing units to be developed as affordable housing. They should be provided on site or if it can be demonstrated to the Council that this, or the off-site provision of the required affordable units is not practicable, a commuted sum payment should be made to the Council in lieu of such an on or off-site provision. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

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

Notwithstanding these technical considerations, another material consideration in the determination of this application is whether or not the principle of the proposed mixed use development accords with development plan policy and other supplementary planning guidance, whether the proposal is acceptable in visual impact terms, and if not, whether there are material considerations that outweigh any conflict with the development plan and other supplementary planning guidance.

The application site is covered by Proposal BUS11 of the adopted East Lothian Local Plan 2008, which allocates the application site for business and general industry use, where Policy BUS1 will apply.

Policy BUS1 of the adopted East Lothian Local Plan 2008 supports in principle uses within Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and states that development that does not fall within these classes will not normally be permitted, with the exception of retail activity that is directly related and ancillary to a business or industrial process being carried out on the site.

In order to meet the continued need for business and industrial land and premises in East Lothian the East Lothian Local Development Plan (ELLDP) continues to allocate the application site in its entirety for employment use by Proposal TT6. Proposal TT6 advises that Policy EMP1 of the ELLDP applies to the site. Policy EMP1 states that within areas allocated for business and employment, uses within Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 are supported. Policy EMP1 further states that other employment generating uses may also be supported in these locations subject to the town centre first principle (policy TC1) and provided there would be no amenity conflicts or other unacceptable impacts. Proposals to redevelop employment sites or premises for other employment generating uses will only be supported where the uses proposed do not prejudice or inhibit the activities of a nearby employment use.

Residential use falls within Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Neither Policy BUS1 of the adopted East Lothian Local Plan 2008 nor Policy EMP1 of the East Lothian Local Development Plan give support to a residential use on any part of the application site. The housing element of the proposed development would be sited on and thus would result in the loss of land within the application site that is part of the established employment land supply and is allocated by the Planning Authority for employment use to in part meet the identified need for business land in East Lothian to enable and sustain the economy of East Lothian.

The housing element of the proposed development is therefore contrary to Proposal BUS11 and Policy BUS1 of the adopted East Lothian Local Plan 2008 and Proposal TT6 and Policy EMP1 of the East Lothian Local Development Plan.

Notwithstanding this, it is necessary to consider whether there are material considerations in this case that outweigh development plan policy.

The applicant has submitted an Employment Land Assessment and a Development Viability Report, which seek to justify the proposed development.

The submitted Employment Land Assessment advises that the application site has been lying undeveloped with no employment market interest despite its historical allocation in both the adopted East Lothian Local Plan 2008 and the development plan that preceded it. It has failed to be developed for this use despite widespread market knowledge of its availability for this use and its local plan designation. The Employment Land Assessment continues that the scale of the site is entirely disproportionate to the site's employment potential, given the market positioning. At say 30% development density, it could accommodate approximately 13,000 sq.m. (140,000 sq.ft.) of buildings for employment use. This is seen not to be a realistic prospect in this market location. Moreover, development of employment premises is held not to be financially viable in East Lothian and existing stock is either in public sector ownership, legacy owner-occupied buildings, or cross-funded or otherwise financially supported. The Employment Land Assessment states that a realistic

approach needs to be taken to the delivery of the site for employment uses. Its location and the nearby competition of better located strategic sites mitigate against significant levels of employment uses being attracted to this site. Small scale investment may occur, but given historic levels of take up in East Lothian, and the availability of better located sites, it will not be of the scale that would require 4.5ha of land east of Tranent. The Employment Land Assessment concludes that a mixed use scheme, whereby residential development could enable the servicing of a smaller employment site for local businesses, would be appropriate in this location.

In the applicant's submitted Development Viability Report, it is stated that the report provides a more detailed evaluation of the viability of business and residential uses at the site. Based upon the analysis contained within the report, it advises that business development over the whole of the application site is unviable and given the high costs of developing the site the view is that for employment use to be recognised at the site it must be cross-subsidised through the delivery of other higher values uses, such as residential.

This is mostly due to the applicant's assumptions on what they deem to be abnormal costs in developing the site of £1,514,307, which is based upon the findings of a Report on Site Investigations by Mason Evans.

The applicants deemed abnormal items resulting in the abnormal costs for development of the site consist of:

- Grouting – former mineshafts require grouting;
- SUDS/Drainage;
- Earthworks – ground remodelling;
- Foundations – trenchfill require which is an extra cost over standard foundation;
- Drainage outfall – road excavation for surface water connection;
- Hydrobreak;
- Noise Attenuation – plots backing onto commercial area to incorporate noise reducing measures through upgraded glazing and acoustic vents;
- Retaining Walls – required due to levels;
- Contamination.

The applicant's submitted Development Viability Report contends that the review of the site's deliverability for business use indicates that demand levels are not strong enough for it to be progressed in its entirety. In addition, the residual calculation within the report assesses the site as being financially unviable given the significant abnormal costs. A review of the site's viability for the proposed mixed use development determines that the proposed development is viable with the overall financial calculations proving that the residential land value is cross-subsidising the servicing and remediation of the commercial land. The applicant also confirms they are willing to service the business land and transfer title of it to East Lothian Council at no cost. The Report states that the completion of the project would create a development in line with local demand that will be progressed immediately by an identified house builder. This will deliver a development, in line with market conditions, that will have significant benefits for the local area. These include new private and affordable homes, serviced commercial land provided to East Lothian Council and planning gain payments for improvements to local schooling and infrastructure.

Turning first to the market demand levels assessment for the site in the applicant's Employment Land Assessment, the proposed East Lothian Local Development Plan (ELLDP) has been modified following Ministers' Examination and has been approved

by East Lothian Council as the Local Development Plan the Council intends to adopt. In respect of land supply in East Lothian for business development and use the ELLDP was prepared on the basis of an assessment of the established business land supply in East Lothian. This was undertaken in liaison with the Council's Economic Development and Strategic Investment Service. In order to meet the continued need for employment land and premises in east Lothian the ELLDP continues to allocate the application site in its entirety for employment use by its Proposal TT6. This was endorsed by the Reporters in their Examination Report and approved by East Lothian Council.

The applicant's submitted Development Viability Report concludes that the review of the site's deliverability for business use indicates that demand levels are not strong enough for it to be progressed in its entirety and moreover the residual calculation within the report assesses the site as being financially unviable given the significant abnormal costs, which are bulleted above.

However, the contention of abnormal costs by the applicant are for matters not abnormal, rather they would be considered as normal costs associated with the development of a site. Indeed, SUDS, drainage connections, earthworks, foundations and retaining walls are all completely standard development costs typical with any development site. Constraints specific to this site including grouting due to former mine workings, noise attenuation due surrounding land uses and dealing with contamination are also not uncommon costs in developing a site and are frequently factored into development costs. The Council's Planning Delivery service can attest to dealing with numerous applications for planning permission or planning permission in principle where such constraints have been evident but not been cited as abnormal by an applicant and are factored into standard development costs.

Moreover the applicant, Barratt & David Wilson Homes (East Scotland), are developing a residential site in Prestonpans (refs: 15/00473/PPM and 16/01019/AMM) where the same constraints occurred, specifically a requirement for grouting due to former mine workings, noise attenuation due surrounding land uses and dealing with contamination. Through those applications, Barratt & David Wilson Homes (East Scotland) did not advance a case of abnormal costs for site development and accepted a need for planning conditions to be imposed to mitigate against those constraints without objection or challenge.

At the request of the Council, the District Valuer has assessed the applicant's Employment Land Assessment and Development Viability Report. The District Valuer confirms that in the basis of the evidence presented and coupled with his own understanding of the commercial property market in East Lothian, he accepts that the application site is unlikely to be commercially viable for a single phase development reflecting 100% business use in the short to medium term.

However, he further advises that there is potential for a phased development on the application site becoming achievable over a longer period should market factors allow. This is even factoring in the applicant's perceived abnormal costs. The District Valuer advises this could potentially allow parts of the site to be developed and let and thereafter sold or borrowed against to fund future phases.

The Council's Economic Development and Strategic Investment (EDSI) service has been consulted on the application. EDSI advise that the East Lothian Council Economic Development Strategy 2012-22 was adopted by the Council on 9 October 2012.

It sets out clear strategic direction and is the foundation of the vision set out in the Council Plan of increasing the number of businesses in East Lothian with growth potential and to increase the proportion of East Lothian residents working in and contributing to East Lothian's economy by an increase in East Lothian's jobs by an additional 7,500. Over the 10 year period of the East Lothian Economic Development Strategy 2012 to 2022 the average number of new jobs which need to be created in the Tranent area as part of achieving the creation of 7,500 new jobs across East Lothian is 145 new jobs annually.

EDSI note that in order to meet the continued need for business and industrial land and premises in East Lothian the East Lothian Local Development Plan continues to allocate the application site in its entirety for employment use by Proposal TT6, which supports uses within Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The Reporters in their Examination Report endorsed this allocation.

EDSI point out that the application site has never been actively marketed for lease / sale for employment uses. Moreover, an approach was made to the landowner, the Co-operative Group Ltd, in 2012 by East Lothian Land Ltd (a wholly owned subsidiary of East Lothian Council) via an agent to purchase the site for employment use. This offer was declined by the Co-operative Group Ltd.

EDSI views the development proposed in this application as having a clear negative impact in terms of delivery of the East Lothian Economic Development Strategy 2012-22 and the 2 strategic goals of increasing the number of businesses in East Lothian with growth potential and increasing the proportion of East Lothian residents working in and contributing to East Lothian's economy. They advise that a clear demand exists for employment land/commercial units in East Lothian, including in Tranent, as identified in the Business Base survey 2017 and based on the 2 strategic goals in the aforementioned Economic Development Strategy 2012-22. The proposed development would lead to a further reduction in available employment land in Tranent, contrary to the Development Strategy 2012-22. Moreover, the site has never been marketed for employment uses which makes no demonstration that an employment use on the site is not viable, and the Council has approached the landowner with regards to purchasing the site for employment use without success.

EDSI welcomes the proposed 15 new business units, however, advises that a demand exists within East Lothian for small industrial units. They further note that the District Valuer has appraised the applicant's submitted reports and while he accepts that the site is unlikely to be commercially viable for a single-phase development reflecting 100% business use, states there is potential for phased development becoming achievable over a longer period. In this EDSI advise the application site could be subdivided to cater for smaller businesses and therefore it cannot be taken to mean that there is no reasonable prospect of a business and industrial or other employment generating use of the site being realised.

In conclusion EDSI state that as a residential use of the application site would result in the removal of existing viable employment land in Tranent, which would contribute to the aims and objectives of the Council's East Lothian Economic Development Strategy 2012 to 2022, they recommend the application be refused.

It should also be pointed out that based on the up to date 2017 Housing Land Audit, the Council is able to demonstrate a 6.17 years supply of effective housing land. Therefore, the new build housing development proposed in this application is not required to contribute towards an effective five year housing land supply.



In conclusion, the new build housing development proposed in this application is significantly contrary to the development plan, specifically Policy 2 of the approved South East Scotland Strategic Development Plan (SESplan), Proposal BUS11 and Policy BUS1 of the adopted East Lothian Local Plan 2008, Proposal TT6 and Policy EMP1 of the East Lothian Local Development Plan and also contrary to Scottish Planning Policy: June 2014. The benefits of the proposed new business units and the applicant's offer of the transfer to the Council of the business land do not outweigh these provisions of the development plan and the loss of the remainder of the allocated business site to housing.

If approved the proposed housing development would set an undesirable precedent for the development of new housing on land elsewhere in East Lothian that is allocated for employment use, the cumulative effect of which would be the depletion of Council's supply of established land for employment use to the detriment of the economy of East Lothian.

#### RECOMMENDATION:

That planning permission be refused for the proposed mixed use development of the site for the following reasons:

- 1 The proposed housing development would result in the loss of employment land that is part of the established employment land supply of Tranent, to the detriment of East Lothian's economy, contrary to Policy 2 of the approved South East Scotland Strategic Development Plan (SESplan), Proposal BUS11 and Policy BUS1 of the adopted East Lothian Local Plan 2008, Proposal TT6 and Policy EMP1 of the proposed East Lothian Local Development Plan and Scottish Planning Policy: June 2014.
- 2 If approved the proposed housing development would set an undesirable precedent for the development of new housing on land elsewhere in East Lothian that is allocated for employment use, the cumulative effect of which would be the depletion of Council's supply of established land for employment use to the detriment of the economy of East Lothian.

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

**3**

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Application No. **18/00218/PM**

Proposal                   Erection of 82 residential units, with associated roads, infrastructure and open space as changes to the scheme of development 13/00519/PM at land at Letham Mains, Haddington

Location                   **Letham Mains  
Haddington  
East Lothian**

Applicant                   Mactaggart and Mickel Homes Ltd

Per                           Andrew Bennie Planning

RECOMMENDATION           Consent Granted

#### PLANNING ASSESSMENT

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

This planning application relates to some 2.46 hectares of former agricultural land at Letham Mains, on the western side of Haddington. It includes the southern part of the public road of the B6471 West Road, which forms the northern part of the application site.

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

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

includes the land that is the subject of this planning application. Also in May 2017 planning permission (Ref: 14/0089/PM) was granted for the erection of 257 houses, 119 flats and associated works, including a sports pitch and two changing room facility on the eastern part of that allocated housing site.

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

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

In March 2018 planning permission 17/00900/P was granted for the erection of 34 houses, repositioning of plots and associated works as changes to the scheme of development the subject of 13/00519/PM. Works to implement planning permission 17/00900/P have commenced.

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

Development of the two housing sites has recently commenced.

This application site is part of the eastern part of the site the subject of planning permission 13/00519/PM.

Planning permission is now sought for the erection of 82 houses, as changes to the scheme of development approved by the grant of planning permission 13/00519/PPM. The changes to the approved layout would affect 82 of the house plots within the part of the Mactaggart and Mickel Homes Ltd component of the site defined as plots 21- 57, 83-105 and 22 affordable homes AH1- AH22 and to the layout of some of the parking and landscaping approved by that grant of planning permission. The proposed development would not change number of houses to be built on this part of the site but is proposing changes to their positioning and in some cases the orientation of those houses.

The proposed development would be comprised of a mix of 3, 4 and 5 bed roomed houses and 1 and 2 bed roomed flats, together with internal access roads, parking and landscaping.

As was previously approved by planning permission 13/00519/PM twenty two of the units would be affordable units comprising 5 houses (four x 3 bed roomed semi detached houses, one x a 3 bed roomed cottage and one x 4 bed roomed house) and 16 flats (four x 1 bed roomed flats and twelve x 2 bed roomed flat).

The other 60 units would be for market sale and would comprise four x 5 bed detached houses, seven x 4 bed detached houses, five x 3 bed detached houses, 30 x 3 bed semi detached/terraced houses, four x 2 bed terraced house, four x 1 bed flats and six x 2 bed flats.

The proposed housing would be accessed from the approved distributor road that is adjacent to the western side of the site by way of an access on the eastern side of that distributor road. Access to this part of the site would also be via a road leading from the first phase of development located to the north of this site which is currently under construction.

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

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

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

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 Proposal HN1, and Policies DP2 (Design), DP4 (Major Development Sites), DP8 Design Standards for New Housing Areas, RCA1( Residential Character and Amenity) DP2 (design) T2 (General Transport Impact) ) of the ELLDP does not represent any significant alteration to the current relevant policy.

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

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

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

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

There is no public objection to the application.

By the grant of planning permission 13/00519/PM, approval has already been given for the erection of 433 residential units on the western part of the land of Letham Mains. As there would be no increase to the 433 residential units already approved there can be no objection in principle to the erection of 82 houses on the application site, as now proposed.

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

The site by being to the south of the first phase of the much larger site will not be overly prominent in approaches to and from Haddington. However, as part of the larger development the proposed housing has been carefully designed to respect its location. The houses now proposed would not cause any incongruous change to the architectural harmony, integrity and character of the scheme of housing development approved for the Letham Mains housing site, provided there is compliance with the scheme of external finishes approved for the development as a whole by the grant of planning permission 13/00519/PM. In this regard, the predominant external wall finish should be render. This matter can be controlled by a condition imposed on a grant of planning permission for the proposed houses. The proposed 82 houses are broadly consistent with the requirements of the Council's approved development framework for Letham Mains and with the Masterplan docketed to planning permissions 13/00519/PM and 14/00089/PM. The now proposed houses and flat would be two storeys in height. In their proposed groupings and orientation, they would be broadly consistent with the principles of 'Home Zones' as set out in the Council's Design Standards for New Housing Areas, as would the proposed layouts of roads and pathways, with their use of pinch points and shared surfaces to restrict traffic priorities and speeds.

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

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

The proposed positioning of the 82 houses and other components of the development would not prejudice the remainder of the housing development already approved in detail by planning permissions 13/00519/PM and 14/00089/PM.

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

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

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

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

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

No changes are proposed to either the size or locations of the areas of open space approved by planning permission 13/00519/PM. Similarly no changes are proposed to the equipped play areas already approved for that part of the Letham Mains housing site.

The Council's Road Services are generally satisfied with the detailed proposals for site access and parking which are consistent with Policies T2, DP20 and DP22 of the adopted East Lothian Local Plan 2008.

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

The matter of flood risk was fully considered in the assessment of application 13/00519/PM. The Scottish Environment Protection Agency raise no objection to the 34 houses now proposed.

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

The Council's Legal and Procurement Services has advised that the modification to the Legal Agreement approved by the Council in March 2018 (Ref: 18/00001/OBL) will ensure that the Section 75 Legal Agreement applies in respect of the now proposed development of 82 houses. On this basis planning permission should now be granted subject to the undernoted conditions.

## CONDITIONS:

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

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

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

Reason:

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

- 2 Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses and flats of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses and flats, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. The render colours shall have due regard to the finishes of other residential properties in Haddington. However, some use of reconstituted stone would be acceptable providing it is limited to a distinctively complete feature of the houses and flats and respectful of their design integrity. 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.

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

Year 1 (2017/18) - 0 houses  
Year 2 (2018/19) - 52 houses  
Year 3 (2019/20) - 98 houses  
Year 4 (2020/21) - 107 houses  
Year 5 (2021/22) - 84 houses  
Year 6 (2022/23) - 82 houses  
Year 7 (2023/24) - 10 houses

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

Reason:

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

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



securing the works is approved in writing by the Planning Authority.

Reason:

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

- 5 Landscaping of the site shall be carried out in accordance with that shown on the site plan drawing ref 18-102(PL)01E.docketed to this planning permission.

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

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interest

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

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

Reason:

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

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

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

Reason:

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

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

Reason

In the interests of road safety.

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

Reason:

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

- 10 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.

- 11 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.

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 21 August 2018  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

**4**

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Application No. **18/00431/PM**

Proposal Renewal of planning permission 15/00022/PM - Construction and operation of a leachate treatment plant (LTP) comprising a series of storage and treatment tanks within a surfaced and bunded compound, together with lagoons, reed beds and ancillary plant and infrastructure

Location **Dunbar Landfill Site  
Innerwick  
Dunbar  
East Lothian  
EH42 1SW**

Applicant Viridor Waste Management Ltd

Per SLR Consulting Limited

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

As the capacity of the proposed facility is more than 25,000 tonnes per annum, 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.

As a statutory requirement of major development type proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 14/00024/PAN) and thus of community consultation prior to this application for planning permission being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that a total of 4 people attended the two separate pre-application public exhibitions held at Halhill Sports Centre and Innerwick

Residential Centre, and that those attendees raised no specific comments or queries regarding the proposals. The development for which planning permission is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

The application site, which has an area of some 2.2 hectares, comprises a linear area of land that is located on the southern part of the existing waste landfill site at Oxwellmains, Dunbar. The landfill site is operated by Viridor Waste Management Ltd under the terms of planning permission P/0867/91 granted in June 1993. It occupies a countryside location 4.5km to the south east of Dunbar, 2km to the northwest of the village of Innerwick, and 3.5km to the west of Torness Nuclear Power Station. The landfill site is bounded to the north by the main east coast railway line, to the east by farmland, to the south by the A1 trunk road and to the west by the Lafarge Cement Works.

Existing woodland strips enclose the site on its northern and western sides, a landscaped bund encloses it on its southern side and landscape planting encloses its eastern side.

The nearest residential properties are the farm at Easter Pinkerton and nearby cottages located approximately 550m and 730m to the west of the application site respectively, being separated from the site by the A1 and intervening mature vegetation. East Barns Farm is located 850m north of the site being separated from it by the landfill operations and vegetation.

On 3 June 2015 planning permission (ref:15/00022/PM) was granted for the construction and operation on the application site of a leachate treatment plant (LTP) comprising a series of storage and treatment tanks within a surfaced and bunded compound, together with lagoons, reed beds and ancillary plant and infrastructure. That planning permission was not implemented and has now expired.

Planning permission is now sought for the renewal of planning permission 15/00022/PM. This application for the renewal of planning permission 15/00022/PM is a valid application, as when it was made to the Council on 16 May 2018 a commencement had not been made to the development approved by the grant of planning permission 15/00022/PM and it was submitted before the expiry of planning permission 15/00022/PM.

The generation of leachate is caused principally by precipitation percolating through waste deposited in a landfill. Once in contact with decomposing solid waste, the percolating water becomes contaminated, and if it then flows out of the waste material it is termed leachate.

The applicant's submitted Planning Statement informs that landfill sites generate leachate when water (mostly from rainfall but also from moisture created from decomposing waste) collects in the waste disposal area (known as a landfill cell). In order to prevent the build-up of leachate within the base of the landfill, each cell is constructed with a drainage layer of granular material or pipe work on top of an impermeable barrier (liner). The impermeable barrier and drainage layer are constructed with a suitable gradient to allow leachate to flow to a collection sump where it is pumped out of the landfill cell as necessary.

Under the current practice at the landfill site, leachate is stored in lagoons pending export from the site by road tankers to a waste water treatment facility. The

proposed onsite treatment would lead to a reduction in vehicle movements associated with the treatment of leachate.

The proposed LTP would consist of a number of cylindrical storage and processing tanks constructed from, depending on the function of the tank, concrete, HDPE or glass coated steel. A palette of dark grey, dark green and black matt finishes would be utilised for the tanks and containers which would be in keeping with the existing colour palette of built form on the landfill site. The tanks would be located within a hard surfaced area, which would be bunded at the edges by a concrete wall approximately 1m high. Some tanks would also be fitted with integral bunding.

In summary the development would comprise:

- o six standard-sized shipping containers, each respectively housing; an office and laboratory, a control room, chemical dosing and pump, tools and equipment storage, metals stripping skid and a metals stripping consumables store;
- o three large cylindrical tanks (raw leachate balancing tank, anoxic zone tank and aeration zone tank), which would measure up to some 24m in diameter and 8.5m high;
- o three smaller tanks (ultra-filtration, sludge tank and effluent balancing tank) which would measure up to some 13m in diameter and 3m high;
- o three self-bunded chemical dosing tanks which would be some 5m in diameter and 4m high;
- o a sludge drying wetland; two further wetlands and an effluent lagoon;
- o a small pump house; and
- o hardsurfaced areas in the form of access roads, gates and 1.8m high fencing.

In total the LTP would cover an area of around some 2.2 hectares, of this 0.6 hectares would be associated with the tanks and infrastructure, with the remainder comprising the lagoons, ditches, access tracks and perimeter vegetation.

The applicant's submitted Planning Statement informs the chosen technology for the LTP is the well-established activated sludge process. This process uses a combination of aeration, chemical and biological treatment methods to reduce levels of contaminants to a suitable level to allow the treated leachate to be discharged to a local watercourse, in this case the Dry Burn at the eastern tip of the site.

The LTP has been designed to treat up to 100m<sup>3</sup> of leachate per day, which equates to 36,500m<sup>3</sup> or 36,500 tonnes of leachate per year. It is anticipated that the maximum discharge rate to the Dry Burn would be 150m<sup>3</sup> of treated effluent per day. Only leachate generated from the landfill site would be treated at the proposed LTP.

Access to the LTP would be from an existing haul road passing through the landfill site. The landfill site benefits from direct access onto the A1087, which in turn provides access to the north and southbound carriageways of the A1.

As noted above, leachate is currently stored in lagoons pending export from the site by road tankers to a waste water treatment facility. This results in between 80 and 100 HGV movements (i.e. 40 to 50 in and 40 to 50 out of the site) each month. With

the proposed LTP, this would significantly reduce to an average of 2 to 4 HGV movements per month. Reducing HGV movements would lead to a reduction in carbon emissions associated with the treatment of leachate as well as a reduction in environmental effects associated with the movement of HGVs along the highway network.

The applicant has submitted an Environmental Statement (ES) with the planning application, which accompanied planning permission 15/00022/PM. The Environmental Statement contains chapters on planning policy, alternative sites, the water environment, ecology and other environmental issues.

In accordance with the current Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the applicant has also submitted an EIA Report Addendum, which updates the submitted Environmental Statement.

A Planning Statement and Design and Access Statement have also been submitted with the application.

The majority of the application site is within the battlefield site of the Battle of Dunbar II (1650) that is included in Historic Environment Scotland's Inventory of Historic Battlefields.

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 Policies 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies W1 (Oxwellmains, Dunbar), DC1 (Development in the Countryside and Undeveloped Coast), NRG2 (Torness Consultation Zone), T2 (General Transport Impact), DP2 (Design) and ENV7 (Scheduled Monuments and Archaeological Sites) of the adopted East Lothian Local Plan 2008.

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 W1 (Waste Management Safeguards), DC1 (Rural Diversification), OI2 (Torness Consultation Zone), T2 (General Transport Impact), DP2 (Design) and CH5 (Battlefields) of the ELLDP do not represent any significant alteration to the current relevant policy.

There is no public objection to this application.

The existing landfill site at Oxwellmains is a well established waste management use in its countryside location with planning permission and supported by Policy W1 of the adopted East Lothian Local Plan 2008. Policy W1 states that Oxwellmains, Dunbar is supported as a site for waste treatment and disposal and that development

that restricts its continued operation will not be permitted.

The proposed LTP would be a waste management use which would serve to enhance the operational ability of the landfill site to process and treat its own leachate production. It would enable an operational continuation of waste treatment and disposal at Oxwellmains, consistent with Policy W1 of the adopted East Lothian Local Plan 2008 and Policy DC1 of the adopted East Lothian Local Plan 2008.

Of the proposed LTP development the main elements of its built form would be the three large cylindrical tanks, the smaller tanks and the shipping containers. They would be positioned on land that at present forms a depression relative to neighbouring land, particularly to the higher land to the west and north and the bund to the south, which forms a raised landscaped embankment with the A1 trunk road. Moreover, there are existing woodland strips on the north and west sides of the site and landscape planting at its eastern end. Consequently it would only be the very uppermost parts of the three large cylindrical tanks that would be visible in views from outwith the site. The proposed LTP would be located within the operational landfill site with its associated buildings and infrastructure. In such a landscape character setting the proposed LTP would not appear unduly incongruous, dominant or intrusive in its countryside setting and would not have an unacceptable landscape or visual impact.

The other elements of the proposed development, including the access road, fencing, gates, wetlands and lagoon would, in their positions and due to their markedly smaller size and the latter being water features would be subservient to the main built form elements of the LTP and thus would not in their relationship with those elements be harmful to the landscape character or appearance of the area.

In their consultation response, Scottish Natural Heritage raise no objection to the proposed development, noting that there will be no significant landscape and visual effects arising from it nor any harmful ecology impacts.

Similar advice is given by the Council's Landscape Projects Officer, who advises that the site is satisfactorily screened by the existing tree lined linear bund running parallel to the A1 along the sites southern boundary, and by the strip of existing woodland along the sites northern boundary which runs parallel to the access road of the landfill site. He does advise that tree protection fencing be erected prior to works commencing to construct the proposed LTP, to safeguard the tree lined areas from construction activities. This can be secured by a condition imposed on a grant of planning permission.

On these considerations, the proposed development by its size, scale, positioning, form and materials is consistent with Policies 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policy DP2 and Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

In its position the nearest residential properties from the proposed LTP are the farm at Easter Pinkerton and nearby cottages located approximately 550m and 730m to the west of the application site respectively, being separated from the site by the A1 and intervening mature vegetation. East Barns Farm is located 850m north of the site being separated from it by the landfill operations and vegetation.

The Council's Service Manager - Protective Services advises that the proposed LTP would be a facility regulated under the terms of a license issued and enforced by the Scottish Environment Protection Agency (SEPA). Therefore, the Service Manager -

Protective Services has no regulatory role over such matters with regard to the operation of the proposed facility.

The Scottish Environment Protection Agency (SEPA) raise no objection to the application, advising that the proposed LTP facility already holds a SEPA license for its operation, which they would regulate under their separate statutory powers.

Accordingly, the proposed LTP is consistent with Policy DP2 and Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

The Council's Road Services raise no objection to the application, satisfied it can be safely accessed without any detriment to road safety. Road Services do however recommend that during construction period of the proposed LTP, advanced warning signs be provided on the public road to the northeast of the site to inform public road users of construction traffic in the vicinity and turning at the existing access junction to the site, which can be secured by a condition imposed on a grant of planning permission.

Transport Scotland have been consulted on the application and advise that the proposed development would not cause any impact on the trunk road network and thus they raise no objection to the application.

Scottish Water raise no objection to the application.

The Office for Nuclear Regulation has been consulted on the application and raise no objection to it.

As the site is within the battlefield site of the Battle of Dunbar II (1650) Historic Environment Scotland (HES) has provided comments on the application. HES considers that the proposed development would have no significant impact on the battlefield landscape in light of the extent of modern development in the area. They are also satisfied that there would be no significant effects on the setting of any heritage assets within their remit. Thus HES raise no objection to the application. On this consideration the proposed development is consistent with Policy ENV7 of the adopted East Lothian Local Plan 2008.

There has been no material change in circumstance since the granting of planning permission 15/00022/PM to justify a decision other than to grant a renewal of the permission.

#### RECOMMENDATION:

That planning permission be granted subject to the following conditions:

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

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

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



the site.

Reason:

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

- 2 The capacity of the leachate treatment plant hereby approved shall not exceed 36,500 tonnes per annum.

Reason:

To restrict the capacity of the plant to that applied for, in the interests of the amenity of the area and road safety.

- 3 A schedule of materials and finishes and samples of such finishes for all components of the development, including ground surfaces and boundary enclosures shall be submitted to and approved by the Planning Authority prior to the material and finishes being used in the development. The materials and finishes used in the development shall accord with the schedule and samples of them so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area.

- 4 During construction works advanced warning signs shall at all times be displayed on the public road to inform public road users of construction traffic in the vicinity. Prior to their display, details of the proposed signs and their locations shall be submitted to and approved in writing by the Planning Authority and the signs shall thereafter be displayed in accordance with the details so approved.

Reason:

In the interests of road safety.

- 5 Prior to the commencement of the development of the leachate treatment plant hereby approved tree protection fencing shall be erected and retained in place until such time as the DIRICKX and chain link fencing also hereby approved are erected. Prior to the installation of tree protection fencing, details of the proposed tree protection fencing and its location shall be submitted and approved in writing by the Planning Authority and the tree protection fencing shall thereafter be installed in accordance with the details so approved.

Reason:

To ensure the retention and maintenance of the trees on and adjacent to the site which are an important landscape feature of the area.



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 21 August 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: DC1 mentions an 'operational requirement' or "other direct operational requirement". In this case, the "requirement" is based on the occupant's need for care and support to stay in his home, provided by having family on hand. I believe this application highlights an issue in terms of demographics, care and wellbeing, which may be a gap in policy and rural development strategy which ought to be addressed by Committee. If such cases show a need for care and were to be supported by appropriate evidence, I believe this should be a factor in determining similar and this application.*

Application No.      **18/00636/P**

Proposal              Erection of house and garage and associated works

Location              **Garden Ground of Kiloran  
Ormiston  
Tranent  
East Lothian  
EH34 5DH**

Applicant             Mr and Mrs Allan and Janet Jemmett

Per                      Architectural Building & Design Consultants Ltd

RECOMMENDATION      Application Refused

#### PLANNING ASSESSMENT

This application relates to the western part of the property curtilage of the single storey detached house of 'Kiloran', set within its own large garden, located within an area of countryside to the east of Ormiston. The application site is bound to the east by the garden ground of 'Kiloran', to the north by agricultural land, to the west by the residential property of 'Landour' and its garden ground and to the south by the A6093 public road on the opposite side which lies agricultural land.

Planning permission was previously refused through application 91/00887/HIS\_P in June 1992 for the erection of a single storey house with living accommodation in the roofspace and garage on the current application site.

Through this current application planning permission is now sought for the erection of a house and garage and associated works on the west part of the curtilage of 'Kiloran' which is currently in use as a paddock ancillary to the domestic use of 'Kiloran'. The application site would be accessed off the A6093 public road. The application site which is the subject of this current application is the same as the application site which was the subject of planning application 91/00887/HIS\_P.

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

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

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policy DC1 (Countryside and Undeveloped Coast) and T2 (General Transport Impact) of the adopted East Lothian Local Plan are relevant to the determination of this application.

The proposed East Lothian Local Development Plan (PELLDP) was submitted to Scottish Ministers for examination in 2017 and the Reporters' Examination Report was issued on 14 March 2018. The PELLDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications. Relevant Policies, DC1 (Rural Diversification) and T2 (General Transport Impact) of the PELLDP do not represent any significant alteration to the current relevant policies.

Also material to the determination of the application is Scottish Government guidance given in Scottish Planning Policy: June 2014.

In Paragraph 76 of Scottish Planning Policy: June 2014 it is stated that Local Development Plans should make provision for most new urban development to take place within or in planned extension to existing settlements. Paragraph 81 states that in accessible or pressured rural areas, where there is a danger of unsustainable growth in long distance car based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate.

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

Policy DC1 sets out specific criteria for new build housing development in the countryside. Part 1(b) of Policy DC1 only allows for new build housing development in the countryside where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use. Applications must be accompanied by a statement justifying the direct operational requirement for the house.

Policy T2 states that new development must have no significant adverse consequences for road safety.

One letter of objection has been received to the application. The main grounds of objection are:

- i) there has been a previous application for an almost identical proposal refused on the application site and the reasons for that application being turned down are still valid;
- ii) the proposed development does not comply with Policy DC1;

- iii) unsuitable access, resulting in loss of residential amenity and real risk to life;
- iv) cesspit located towards the rear part of the garden of the proposed house and the existing outflow pipe would not be able to take the outflow from another cesspit;
- v) highly unlikely that existing water and electricity supplies would be adequate for a third house;
- vi) detrimental impact on residential amenity of neighbouring property;
- vii) visual impact through loss of trees.

The applicant's agent has submitted a supporting statement with the application explaining that "the applicants have lived at 'Kiloran' for twenty five years and wish to continue living there. Mr Jemmett unfortunately has a degenerative disease and as his illness progresses he will require additional care. With the onset of time, Mrs Jemmett requires additional help from her family to provide sufficient round the clock care for her husband. To allow for the applicants to continue living in their own home, this additional help with care comes from their daughter and son in law, however they currently live in Pencaitland and to provide an appropriate level of care need to be in the immediate vicinity. It is therefore proposed that the site to the west of 'Kiloran' be developed to provide a single dwelling for family members to be in close proximity to the applicants. It should also be noted that the applicant's daughter and son in law currently live in a house which was bought from East Lothian Council where the opportunity arose. This is a 4 bedroom house which the applicant's son in law has lived in for 51 years. Should planning permission be granted for the proposed new house, the family would be willing to sell this house back to the Council to allow for an affordable house to become available."

The proposed house to be erected on the site would be a detached, single storey in height house with pitched roof with living accommodation within the roofspace. The proposed house would have a ridge height of some 3.3 metres and would measure, at most some 18 metres by 12 metres. A detached double garage is proposed to be located adjacent to the east boundary of the new house plot. The garage would measure, at most some 6 metres by 6 metres, it would have a pitched roof with a ridge height of some 5.4 metres. The proposed house would be finished in white render with the roof clad with grey interlocking rooftiles and the windows and doors would be UPVC framed. The front elevation (south) of the building would have a number of openings including a front door, 4 windows, 4 floor to ceiling windows, a glazed patio door, 6 roof windows and 12 solar panels on the roof slope. The house would have a glazed patio door, glazed bi-folding 4 pane door, 2 windows, 2 floor to ceiling windows and 6 roof windows within the roof slope on the rear elevation (north). The west elevation (side) would have 1 window, 3 floor to ceiling windows and 6 solar panels on the roof slope with the east elevation (side) having 2 floor to ceiling windows. The south (front) and west (side) elevations of the house would feature timber clad Siberian larch elements on the gables. It is proposed that a new 6 metre wide vehicular access be formed on the southern boundary of the application site off the A6093 public road to serve a new tarmac driveway which would provide vehicular access to a parking, turning area and detached double garage located within the site. It is proposed that two paved patio areas and a paved pedestrian access path from the tarmac drive to the front door of the house be formed. The boundaries of the proposed house plot would be enclosed along the west boundary by the existing close boarded timber fence, the north boundary being defined by an existing post and wire fence, the south boundary by the existing post and wire fence and hedge and with the east boundary between the proposed house plot and the existing house of 'Kiloran' being delineated by a new 1.2 metres high post and wire fence. The proposed house would comprise of an entrance hall, study/bedroom, bedroom, bathroom, large open plan kitchen/dining/living room and a sunroom at ground floor level with a further 2 bedrooms each with an en-suite being provided at first floor level.

The application site is currently an area of undeveloped paddock ground within the western part of the curtilage of the existing house 'Kiloran'. A large number of mature trees are currently situated on the application site which occupies a countryside location.

The site is within a Coal Authority Development High Risk Area. In such areas there are existing recorded risks to the ground stability which need to be assessed and mitigated as part of the new development proposals in the interests of public safety. The Coal Authority's Guidance for Scottish Planning Authorities: 2017 clearly states that any planning application for development which intersects the ground in the Development High Risk Area requires a desk based Coal Mining Risk Assessment and once this has been provided, consultation with the Coal Authority. The Coal Authority have been consulted on the application and advise that as a Coal Mining Risk Assessment Report has not been submitted with the application they object to the application as it has not been demonstrated that the site can be developed without risk posed by past coal mining activity.

The Council's Environmental Protection Manager has advised that the application site may be in a high risk to development area with respect to shallow coal mine workings.

The Council's Road Services object to the application on the grounds that the access from the private road onto the A6093 is not suitable for increased traffic.

The Council's Landscape Officer has advised that there are a number of significant trees within the site that are shown to be removed to accommodate the proposed house, garage, driveway and vehicular turning area. These trees are worthy of retention and the site layout could be rearranged such that five trees could be retained.

The applicant's agent has submitted a supporting statement with the application which seeks to justify the requirement for a new house on the grounds that the current owner/occupier of the property 'Kiloran' has a degenerative disease which could potentially lead to him requiring round the clock care. While the health condition of the applicant is unfortunate it is not a material planning consideration in the determination of this planning application.

No case has been made for the proposed house to meet an agriculture, horticulture or forestry need. No other operational need has been advanced to justify the erection of a house on the application site in this countryside location such that the proposal is contrary to Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan), Policy DC1 (Development in the Countryside and Undeveloped Coast) of the adopted East Lothian Local Plan 2008 and Government policy guidance regarding the control of new housing development in the countryside expounded in Scottish Planning Policy: June 2014.

Furthermore, if approved the proposal would set an undesirable precedent for the development of new houses in the countryside, the cumulative effect of which would result in a detrimental impact on the rural character of the open countryside in East Lothian.

In conclusion there are no material planning considerations that outweigh the fact that the proposed development is contrary to Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan), Policy DC1 (Development in the Countryside and Undeveloped Coast) of the adopted East Lothian Local Plan 2008 and Government policy guidance regarding

the control of new housing development in the countryside expounded in Scottish Planning Policy: June 2014.

#### REASONS FOR REFUSAL:

- 1 No case has been made for the proposed house to meet an agriculture, horticulture or forestry need. Without such a justification the proposal is contrary to Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan), Policy DC1 (Development in the Countryside and Undeveloped Coast) of the adopted East Lothian Local Plan 2008 and Government policy guidance regarding the control of new housing development in the countryside expounded in Scottish Planning Policy: June 2014.
- 2 If approved the proposal would set an undesirable precedent for the development of new houses in the countryside, the cumulative effect of which would result in a detrimental impact on the rural character of the open countryside in East Lothian.
- 3 The proposed vehicle access to serve the proposed house from the private road onto the A6093 is not suitable for increased traffic and would be to the detriment of road safety contrary to Policy T2 of the adopted East Lothian Local Plan 2008..
- 4 The site is within a Coal Authority Development High Risk Area and a Coal Mining Risk Assessment Report has not been submitted by the applicant. Consequently the applicant has failed to demonstrate that the proposed house could be safely developed in what is a Coal Authority Development High Risk 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)*