

**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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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.