

**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 4 September 2018

**BY:** Depute Chief Executive  
(Partnerships and Community Services)

**SUBJECT:** Application for Planning Permission for Consideration

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Application No. **18/00090/PM**

Proposal: Erection of 94 houses, 8 flats and associated works

Location: **Greendykes Farm  
Macmerry  
East Lothian**

Applicant: Taylor Wimpey East Scotland

RECOMMENDATION: Consent Granted

#### PLANNING ASSESSMENT

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

As a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 17/00009/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 major development type applications, a pre-application consultation report is submitted with this application. The report informs that some 90 people attended the pre-application public exhibition, which were held at Macmerry Miners' Welfare Society & Social Club on the 14th April 2016 and the 31 August 2017, and that twenty questionnaires were completed and returned. The attendees of the pre-application public exhibition raised a number of issues regarding the proposals. A meeting was also held with Macmerry and Gladmuir Community Council on 4th September 2017. 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 is comprised of some 3.75 hectares of arable agricultural land located on the north west side of the village of Macmerry. The site is within the countryside as defined by Policy DC1 of the adopted East Lothian Local Plan 2008. The site constitutes the eastern part of allocated housing site TT7 Macmerry North as allocated by the East Lothian Local Development Plan (ELLDP).

The site is bounded to the south by the gardens of residential properties at Mountfair Gardens, Mountfair Place and St Germain's Terrace. There is a small tree belt along the eastern boundary of the site, which is punctuated by two sections of 'dead-end' road from the adjacent housing development on Chesterhall Avenue. To the north the site adjoins agricultural land. To the west the site is bounded by a footpath, which is part of the core path network, beyond which is agricultural land.

Planning permission is sought through this application for the erection of 102 residential units, comprising 94 houses and 8 flats. Since the registration of the application, a number of amendments have been made to the application resulting in the submission of revised site layout plans, landscaping plans, SUDS details and housing design details. This has resulted in a reduction in the proposed number of residential units from 105 units to 102, alterations to the design of the SUDS basin, increased landscaping and various other small revisions.

The development site layout plan shows how the proposed 102 units would be accommodated on the site along with associated access roads, parking areas, landscaping, open space and a sustainable drainage system (SuDS) basin.

The proposed houses would comprise of a mix of detached, semi-detached and terraced houses. The houses would be two-storey with the exception of 2 houses (plots 50 and 51 on the site layout plan) which would be single storey bungalows. The 8 flats would be contained within two, two storey flatted buildings. The flats and the bungalows would be located in the southwest part of the site. The houses would vary in size, 17 would contain 2 bedrooms, 41 would contain 3 bedrooms and 36 would contain 4 bedrooms.

Of the 102 units there would be a total of 76 houses for private sale and 26 units would be for the provision of affordable housing. The 26 affordable housing units would be comprised of 2 accessible bungalows, 8 flats and 16 terraced and semi-detached houses. These properties would be grouped in two separate areas within the western part of the site.

Vehicular, pedestrian and cycle access to the site would be taken by way of two link roads from the existing spurs from Chesterhall Avenue. A pedestrian and cycle link would be formed connecting the site to the core path on the west of the site. The site layout plan indicates that this could form a potential future link road, although this would be subject to a separate planning application. Pedestrian footpaths are also proposed at two points on the west boundary of the site, at the north and south ends. An informal footpath with tree and hedge planting is proposed along the north of the site, between the rear gardens of the proposed houses and the site boundary. This would link to a detention basin in the north east corner of the site and the core path to the west. There are also small, incidental areas of landscaping around the site.

Areas of usable open space would be formed on the site. The largest of these is a 'green' in the southern part of the site surrounded by houses. There would also be an 8 metre wide strip along the western side of the site, between the proposed housing and the existing public path.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 01 February 2018 the Council issued a formal screening opinion to the applicant. This concluded that the proposed development is unlikely to have significant effects on the environment to the extent that any expert and detailed study through EIA would be necessary to properly assess any effect. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed residential development to be the subject of an EIA.

The following reports have been submitted as part of this application:

- \* Pre-application Consultation Report;
- \* Design and Access Statement, January 2018;
- \* Planning Statement;
- \* Coal Mining Risk Assessment, August 2017;
- \* Phase 1 Environmental Desk Study, August 2017;
- \* Phase 2 Site Investigation Report, July 2018;
- \* Ecology Report, August 2017;
- \* Flood Risk Assessment, January 2018;
- \* Report on Road Traffic Sound, April 2018;
- \* Surface Water Drainage Strategy, August 2018;
- \* Air Quality Assessment Report, January 2018;
- \* Transport Assessment, January 2018;
- \* Technical note on Strategic Regional Model, July 2018; and
- \* Planting Notes and Landscape and Maintenance and Management Proposals.

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), 5 (Housing Land), 6 (Housing Land Flexibility) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP1 (Landscape and Streetscape Character), DP2 (Design), DP3 (Housing Density), DP4 (Design Statements), DP13 (Biodiversity and Development Sites), DP15 (SUDS), DP17, DP18 (Transport Assessments and Travel Plans), DP19 (Transport Infrastructure Standards-Development Roads, Pedestrian, Cycle and Public Transport Facilities), DP20 (Pedestrians and Cyclists), DP21 (Public Transport) DP22 (Private Parking), DP24 (Home Zones), INF3 (Infrastructure and Facilities Provision), H1 (Housing Quality and Design), 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 ELLDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications.

Relevant ELLDP Policies and Proposals are PROP TT7: Macmerry North, DP1:Landscape Character, DP2:Design, DP3:Housing Density, DP4:Major Development Sites, DP8:Design Standards for New Housing Areas, DP9: Development Briefs, HOU3:Affordable Housing Quota, HOU4:Affordable Housing Tenure Mix, ED4:Tranent Cluster, OS3:Minimum Open Space Standard for New General Needs Housing, OS4: Play Space Provision in new General Needs Housing Development, PROP CF1: Provision of New Sports Pitches and Changing Accommodation, W3: Waste Separation and Collection, W4: Construction Waste, NH5: Biodiversity and Geodiversity Interests, including Nationally Protected Species, NH10:Sustainable Drainage Systems, NH11, Flood Risk, NH12:Air Quality, NH13: Noise,T1: Development Location and Accessibility, T2:General Traffic Impacts, T3:Segregated Active Travel Corridor, T4: Active Travel Routes and Core Paths as part of the Green Network Strategy, PROP T15: Old Craighall A1(T) Junction Improvements, PROP T17: A1(T) Interchange Improvements, PROP T21:Musselburgh Urban Traffic Control System, PROP T27:Tranent Town Centre One-Way System, PROP T28: Junction Improvements at Elphinstone Road and Edinburgh Road, T32:Transport Infrastructure Delivery Fund and Policy DEL1: Infrastructure and Facilities Provision.

Also material are national policy and guidance documents including Scottish Planning Policy (SPP) 2014, Planning Advice Note 67: Housing Quality, Designing Street and Designing Places, Planning Advice Note 75: Planning for Transport. East Lothian supplementary planning guidance of "Design Standards for New Housing Areas" approved by the Council on 10 March 2008 is also a material consideration.

A total of seven written representations have been received in respect of this application.

A copy of each written representation is contained in a shared electronic folder to which all Members of the Committee have had access.

The main grounds of objection are summarised as follows:

- \* Flooding issues for properties on St Germain's Terrace have not been addressed by ELC or Taylor Wimpey. Serious flooding of properties has happened from 2008 to 2017 (photographs of events were submitted by objector);
- \* Serious flooding of housing only started after the new housing was built (on Chesterhall Avenue). The proposed development will make this worse;
- \* The junction onto the main road (A199) from Greendykes Road is dangerous, concern over increase in traffic exiting onto the A199 from Greendykes Road, which has poor visibility and is already affected by the houses at Chesterhall Ave;
- \* Concern over road safety, especially for school children;
- \* Access from Chesterhall Avenue to the site should not be for vehicles; vehicle access should only be from A199 to the west. There will be a detrimental impact on residents of Chesterhall Avenue which is not currently a through road;
- \* Objection to construction traffic being taken through Chesterhall Ave;
- \* Concerns that the primary school cannot cope with additional housing;
- \* Concerns over pressure on facilities and infrastructure from the number of houses proposed, including the doctors surgery;

- \* Objection to the units behind 4 Germain's Terrace as this will have a detrimental impact on privacy and amenity;
- \* Loss of privacy and residential amenity;
- \* There should be a tree line along the south of the application site to protect residential amenity;
- \* Increased pressure for parking spaces;
- \* Detrimental impact on the character and setting of existing housing
- \* Loss of agricultural land; and
- \* The plans do not show the extension to the rear of 4 Germain's Terrace.

It is correct that the extension to 4 Germain's Terrace has not been accurately shown on the proposed plans, but the extension has been taken into account when assessing the application. Privacy and amenity, along with the other issues raised in the objections, are discussed below.

Macmerry and Gladsmuir Community Council did not comment on the application.

The land of the application site is defined as countryside by Policy DC1 (Development in the Countryside and Undeveloped Coast) of the adopted East Lothian Local Plan 2008.

Policy DC1 gives a presumption against new housing in the countryside other than where it has an operational requirement relating to an appropriate countryside business and requires loss of prime agricultural land be minimised. However, the countryside designation of the land of the site must be weighed against the fact that the site is wholly within an allocated housing site (TT7 Macmerry North) in the East Lothian Local Development Plan (ELLDP).

One of the main stated outcomes of Scottish Planning Policy is to create successful, sustainable places by supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places.

This is reflected in paragraph 25 of Scottish Planning Policy (SPP) in which it is stated that the Scottish Government's commitment to the concept of sustainable development is reflected in Scottish Planning Policy's Purpose. The current SPP introduces a presumption in favour of development that contributes to sustainable development, the aim being to achieve the right development in the right place and not to allow development at any cost. SPP makes it clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. However, paragraph 33 states that where relevant policies in a development plan are out of date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration and the same principle should be applied where a development plan is more than five years old.

At this time the adopted East Lothian Local Plan is more than five years old.

Policy 7 of the SESplan states that sites for greenfield housing development may be granted planning permission to maintain a five years' effective housing land supply, subject to satisfying three criteria. These are that the development will be in keeping with the character of the settlement and local area, the development will not undermine green belt objectives; and any additional infrastructure required as a result of the development is either committed or to be funded by the developer. In this case the site is not part of the greenbelt and the other two issues are discussed in detail below.

Proposal PROP TT7 of the ELLDP allocates land for a residential development of circa 150 dwellings. The current application forms a part of this larger site. PROP TT7 states “land at Macmerry North is allocated for circa 150 homes. A design solution for the site that conforms to the Council’s Development Brief will be required. Any development here is subject to the mitigation of any development related impacts, including on a proportionate basis for any cumulative impacts with other proposals including on the transport network, on education and community facilities, and on air quality as appropriate”.

A draft design brief has been written for site TT7 that has been approved by the Council for consultation and is intended for adoption as supplementary planning guidance.

The area of the current application, 3.75 hectares, comprises approximately 42% of the whole TT7 Macmerry North allocation of some 8.95 hectares. The current application seeks permission for 102 dwelling (94 houses and 8 flats), which comprises 68% of the circa 150 residential units that is referred to in Proposal TT7.

A party with an interest in the western part of the site has shared information with the Council to indicate that they hope to come forward with a development of approximately 140 units for the remainder of the allocated site. This would give an overall number of units on the TT7 site of 242 dwelling. It should be noted that the information relating to the land outside the application site to the west does not form part of a formal proposal or application at this stage. However, this is the best available information that the Council currently has to assess the potential overall impacts of the TT7 site. Therefore, the current application must not only been considered in isolation but in relation to the potential implication it would have in combination with future development proposals in the remainder of the site to the west.

It is now necessary to consider the design and layout of the proposal against Council policies and other material consideration to ascertain whether the site can accommodate the proposed number of units. The impact of the proposal on infrastructure and facilities will then be considered.

Individually and cumulatively with other new housing development, the proposed development is not in a location and of a scale so substantial and of such a cumulative impact that it could be considered that granting planning permission would undermine the plan-making process by predetermining decisions about the scale and location of new development that are central to the emerging plan.

Planning Advice Note 67 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.

ELC Supplementary planning guidance, "Design Standards for New Housing Areas" requires that a more flexible approach be taken in road layout and design for proposed housing developments as well as establishing design requirements for the layout of and space between buildings.

The proposed development of the application site would, with its permeable street pattern, links to the core path, road and pedestrian/cycle accesses and open spaces, be a distinctive yet attractive urban expansion of Macmerry. The layout has taken due regard to the existing built form of the settlement and neighbouring residential development. The proposed housing development is shown as being laid out with side driveways and rear parking courtyards to emphasise pedestrian/cycle use and reduce the dominance of vehicle parking.

One of the principal objectives of the Council's approved Design Standards for New Housing Areas is to reduce the visual dominance of the car in the streetscape of new housing developments. The applicant has addressed this principle throughout the development by use of in-curtilage parking to the side of houses and the use of courtyard parking. This would serve to reduce the visual dominance of the car in these streetscapes. In this and in the design principles of the street layout the proposals generally respond to the requirements of the Design Standards.

Policy DP3 of the Local Plan and Policy DP3 of the ELLDP state that new housing sites will be expected to achieve a minimum average density of 30 dwellings per hectare (net) using a full range of housing types and sizes. This is to ensure efficient use of land and other resources and create mixed communities with a full range and choice of house types and sizes.

The applicant has provided information to show that the net density of the site, excluding open space, would be 32.6 units per hectare, thus complying with this requirement of Policy DP3.

In terms of housing types and sizes, the development would comprise of an acceptable mix of detached, semi-detached and terraced houses of varying sizes. Of the 94 houses, 24 would be detached, 60 semi-detached and 10 terraced. In terms of size, 17 would contain 2 bedrooms, 41 would contain 3 bedrooms and 36 would contain 4 bedrooms.

Of the 102 units there would be a total of 76 houses for private sale and 26 units would be for the provision of affordable housing. The private houses would be comprised of 10 different houses types, including 24 detached properties and 50 semi-detached and terraces houses. The 26 affordable housing units would be comprised of 2 accessible bungalows, 8 flats and 16 terraced and semi-detached houses. These properties would be located in two areas; one in the north western corner of the site and the other in the south western corner with open market housing between.

The range of house types proposed would give some variation of built form to the development. The design of the proposed houses and flats are of a traditional pitched roof form. The predominant wall finishes would be render and all roof would be clad in flat, grey tiles. The use of render and tiles would not be out of keeping with the traditional finishes predominating in Macmerry Village. The use of some contrasting wall finish (i.e. reconstituted stone) would provide some variation to this and has been applied in a limited way.

Dual frontage house types have been located on four key corner plots, including plot 95 which is adjacent to the SuDS basin, open space and informal path. This detail will improve the outlook for residents and the interest and appearance of the housing layout.

The proposed development would comply with the requirement for 60 square metres of open space per dwelling required by Policy C1 of the Local Plan and OS3 of the ELLDP. This provision is in addition to incidental landscaping areas and the SuDS detention basin in the northeast corner of the site.

The main area of open space is located within the southern half of the site. It would be surrounded by houses that would face onto it, providing natural surveillance and connecting it to the dwellings. The area is of a sufficient size to provide a usable space for play and it would be located where it could be accessed from all the properties within the site from a reasonable distance. The Council's Principal Amenity Officer advises that the areas of open space shown would provide sufficient areas of open space for informal recreation for the proposed development and that play equipment should be provided by the developer. A play area is indicated and full details and the implementation of the required play equipment can be required by condition to comply with policy C2 of the Local Plan and OS4 of the ELLDP.

A strip of open space is located between the housing along the west of the site and the core path. This should provide an attractive buffer for the core path and setting for the proposed housing. An informal pathway is also proposed along the north of the site which would link the core path to the west of the site and the open space around the SuDS basin and provide an alternative route across the site.

In addition to the on-site open space, The Council's Sports Dev & Community Recreation Manager has advised that as it is estimated that the overall TT7 site would result in over 200 units this triggers a requirement for a small sports pitch (60 metres by 40 metres) within the site or a contribution towards sports facilities within Macmerry. On this site a pitch has not been provided. However, the applicant has agreed in principle to a pro rata contribution to the value of a small sided grass pitch at the cost of £92,500. This amount divided by the 242 units across the whole TT7 site would result in a per dwelling payment of £382.23 and total cost for the current proposal of £38,510.10. This contribution can 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.

In respect of landscape matters, hedge and informal tree planting along the northern boundary fence is proposed in line with the draft design brief for the site. This will provide some visual transition with the countryside to the north. The landscaped strip next to the core path would be overlooked by housing to provide natural surveillance and an attractive outlook for residents. Small area of landscaping next to parking areas and within parking courts will help to visually break these areas up and provide a more attractive setting. The Council's Landscape Projects Officer raises no objection to the proposal. They note that mounding around the SuDS basin will help to visually break up this feature and a landscaping condition can be attached to secure full details of planting and factoring arrangements. Therefore, subject to conditions the landscaping proposals are acceptable.

In respect of SuDS provision, SEPA advises it is satisfied that the applicant is providing the required level of treatment for a development of this size. Scottish Water raise no objection to the proposal. They confirm that there is currently sufficient capacity in the



Castle Moffat Water Treatment Works and Edinburgh Waste Water Treatment Works, although a formal application for connection to their systems will be required. They also note that for reasons of sustainability and to protect customers from potential future sewer flooding, Scottish Water will not normally accept any surface water connections into their combined sewer system.

The drainage strategy (August 2018) states that two levels of treatment are required, the first being filter trenches and the second level being a detention basin. The basin will not be fenced and efforts have been made to integrate it with a surrounding landscaped area. A vehicular track will be required to allow Scottish Water access to the inlets and outlet for maintenance, which has been indicated on the plans.

The applicant has proposed that the water from the basin would connect into an existing surface water sewer. However, as part of investigations for a drainage impact assessment, the applicant has stated that the surface water pipe appears to connect to the existing combined system (surface and foul water). This could result in a detrimental impact on Scottish Water's network and further mitigation works are likely to be required before Scottish Water will accept the proposal. A condition can be attached requiring confirmation of Scottish Water's acceptance of the proposal prior to works commencing on site and requiring confirmation of Scottish Water's technical approval of the scheme prior to the commencement of development. The applicant has also specified which areas are to be maintained by a factor and a condition can be imposed confirming details of this prior to occupation of dwellings. The Council's Flooding and Structures Service raise no objection to the proposal subject to conditions.

In terms of wildlife and biodiversity, the Council's Biodiversity Officer raises no objection to the application. He notes that the site is dominated by arable fields with limited wildlife value and is satisfied the proposal would not have a harmful impact on existing biodiversity or species.

The proposed new houses and flats would be so sited, oriented and screened such as not to harm the privacy and amenity of neighbouring or nearby residential properties through overlooking or overshadowing.

In assessing whether or not a proposed new development would result in overlooking and loss of privacy to other residential properties it is the practice of the Council as planning authority to apply the general rule of a 9 metre separation between the windows on the proposed house and the garden boundary of neighbouring residential properties and an 18m separation between directly facing windows, if they are not adequately screened.

The rear gardens of all property along the south of the site would have gardens a minimum of 10 metres in length. The two storey extension to 4 Germain's Terrace has not been accurately represented on the layout plan, however, the 5 metres extension has been taken account of and this still allows over 20 metres between facing windows. There would be over 10 metres between the windows on the rear on the four-in-a block flats proposed to the north of this property and the existing garden ground. Therefore, the positioning of the flatted units to the north of this house would not result in a significant loss to residential amenity.

The applicant has proposed a layout which seeks to respond to the size and position of the existing houses. The single storey gable of the house at 11 Montfair Place is just less than 5 metres from the southern application site boundary. It is proposed to locate a parking court in the area to the north of this property, rather than a building, to provide

a visual gap between the existing house and the proposed development. The two single storey houses proposed within the development have been positioned in the southwest corner of the site (plots 50 and 51). These plots would be closest to the existing houses at 6 Mountfair Gardens and the garden of 11 Mountfair Place. The lower units were positioned here with the intention to provide a transition between the site and the existing one-and-a-half storey houses. There is also tree and hedge planting proposed in the southwest corner of the site to soften the boundary between the site and these existing properties.

The proposals for site access is generally of an acceptable standard and a sufficient number of car parking spaces are proposed.

A swept path analysis has been submitted that demonstrates that the road layout can generally accommodate a 26 tonne Refuse Collection Vehicle or emergency vehicle. However, The Council's Road Services consider that some further assessment is required to ensure that there is no over-run of footways. Road Services have advised that this can be dealt with by condition and at Road Construction Consent stage.

The Council's Waste Services raise no objection to the application. Bin presentation area have been proposed next to the private parking courts to allow refuse and recycling collection.

The access from Chesterhall Avenue is acceptable and measures have been designed into the layout to encourage reduced vehicle speeds.

An adoptable road is proposed towards the western boundary of the site and the core path. This anticipates development of the western part of the TT7 site and the potential for a road from the A199 to the west. To prevent vehicular access beyond this spur, a condition can be attached requiring bollards or other suitable barriers, which would still allow cycle and pedestrian access.

The core path runs through the middle of the overall TT7 site and provides an important feature linking settlements within East Lothian. The Council's Access Officer has requested that the existing core path is improved to make it accessible and these works are carried out by the developer. A condition can be attached requiring details of upgrading to be submitted, agreed and implemented.

Although the road layout is acceptable for the residential development proposed, The Council's Roads Service has advised that a separate haul road for construction traffic must be used, rather than Chesterhall Avenue being used. The submission of a construction method statement detailing how developers will mitigate the impact of construction on residents and the area can be conditioned, including specific requirements that construction must not be through Chesterhall Avenue. The impacts of the proposed wider local and strategic road networks are discussed below.

On all of these foregoing findings on matters of design, layout, open space, landscaping and amenity, and subject to the imposition of conditions, the proposed development complies with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies C1, C2, C7, DP1, DP2, DP3, DP15, DP20, DP24 and H1 of the adopted East Lothian Local Plan 2008, Policies DP1, DP2, DP3, DP8, OS3, OS4, W3 and NH10 of the ELLDP, the Council's Design Standards for New Housing Areas and the Scottish Government Policy Statement entitled "Designing Streets".

Consideration must then be given to the potential impact of the proposed development

on the infrastructure of the area. As noted above, it has been presumed that there will be 242 units across the whole TT7 site based on the current application of 150 units and pre-application discussions regarding the remaining part of the site to the west.

The SEStran Regional Model (SRM) which informed the Transport Assessment supporting the East Lothian Local Development Plan was run using the assumption of 150 residential unit, as per the site allocation. Due to the proposed increase in units, the Council's Road Services have required that the SRM be re-run to take account of predicted increased number of units for the TT7 site. This was needed to assess whether the road network would be able to accommodate the increase in unit numbers.

The applicant has commissioned additional modelling to be undertaken to assess the transport impact of an additional 92 units on the TT7 site and the results have been summarised in a technical note from PBA consultants (dated 27th July 2018). This confirms that the incremental difference from the increased number of units would not be significant in terms of the road network. The Council's Road Service agree with the findings of the assessment that a 242 unit development of the whole TT7 site shall have a cumulative impact on the wider strategic road network which can be accommodated within the local road network in terms of road capacity.

The Transport Assessment (dated 30th Jan 2018) concluded that there would be no operational issues on the surrounding local road network as a result of a 102 unit development on this part of the allocated site. The analysis showed that the proposed development would have a minimal impact on the operation of the road network such that it will continue to operate satisfactorily. The introduction of traffic signals at the Greendykes Road junction has been proposed to address existing design deficiencies at the junction as well as improving pedestrian crossing provision and reducing traffic speeds. The Council's Roads Service are content with the findings of this assessment and the signalised junction can be secured by condition. Transport Scotland raise no objection to the impact of the development.

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

Policy INF3 of the adopted East Lothian Local Plan 2008 and Policy Del1 of the ELLLDP stipulate that new housing will only be permitted where appropriate provision for infrastructure, required as a consequence of the development, is made. Policy T32 of the ELLDP specifically relates to the package of transportation interventions to mitigate the cumulative impact of development on the transport network which have been identified by the Council in consultation with Transport Scotland. In line with Policy DEL1, relevant developments are required to contribute to the delivery of these transportation interventions, on a proportionate, cumulative pro-rata basis, as set out in Developer Contributions Framework Supplementary Guidance.

For the Macmerry North TT7 site the requirement for developer contributions towards each transport intervention as identified in the Developer Contributions Framework. As the overall number of units on the site are predicted to be 242 units, the contribution for the site have been applied on a pro rata basis for the number of units proposed by this application. The contributions required for each intervention for this application are detailed below:

\* Improvements to Old Craighall junction (PROP T15) £1,203

\* Improvements to Salters Road Interchange and Bankton Interchange (PROP T17):  
£5,419

- \* Musselburgh Town Centre improvements (PROP T21): £1,404
- \* Tranent Town Centre Improvements (PROP T27 and T28) £11,309.

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £19,335

This site is not within a rail contribution zone and no contributions are required for rail improvements.

The site is within the Segregated Active Travel Contribution zone and therefore a contribution, as required by Policy T3 of the ELLDP and the DCF should be secured. This contribution is based on a per dwelling rate of £492, therefore giving a total of £50,184 for this site.

The total developer contributions towards the transportation interventions of £69,519 (indexed linked) can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements.

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

He advises that Macmerry Primary School and Ross High School do not have sufficient capacity to accommodate children that could arise from the proposed development, therefore 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 £362,100 towards the provision of additional school accommodation at Macmerry Primary School and £465,222 towards an extension at Ross High School.

The required payment of a financial contribution of a total of £827,322 towards the provision of additional accommodation at Macmerry Primary School and Ross High School can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, and Policies ED4 and which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made.

Policy HOU4 of the Local Plan and HOU3 of the ELLDP require that developments of five or more dwellings must make provision for affordable housing at a rate of 25% of the total number of dwellings proposed for the site. The Council's Economic Development & Strategic Investment Manager advises that in accordance with the Council's Affordable Housing Policy, 25% of the proposed 102 residential units, or 26 units, require to be affordable housing. The Economic Development & Strategic Investment Manager advises that the mix and location of affordable units to be provided on the site is acceptable. Discussions have taken place between Housing Strategy and Development and the applicant and their location in two areas of the site and the type and mix of units agreed. Although the units would be grouped together in two areas of the site, facilitating easier management, there are units for open market

sale in between and the affordable housing is sufficiently integrated into the overall development.

The terms for the provision of this affordable housing requirement can be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant is willing to do and is shown on the drawings submitted, the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008 and Policies HOU3 and HOU4 of ELLDP.

The East Lothian Council Health and Social Care Partnership raises no objection the current proposal and advise that health service have the ability to service the number of housing units proposed in this application. However, they have stated that they do not support a higher number over the whole TT7 site than the 150 unit allocation. However, they have not asked for additional contributions or detailed how the impact of these additional numbers could be mitigated.

Subject to the payment of the required contribution towards transport interventions, segregated active travel and education provision, which the applicants have confirmed they are willing to make, the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008 and Policies DEL1 and T32 of the ELLDP.

This application proposes the erection of 102 residential dwellings. It is envisaged that a total of 140 dwellings could be erected on the remainder of the allocated TT7 site, resulting in a total of 242 dwellings. This is significantly above the circa 150 residential units that the TT7 site is allocated for in the East Lothian Local Development Plan. Notwithstanding this, the proposed development is not in a location and of a scale so substantial and of such a cumulative impact that it could be considered that granting planning permission would undermine the plan-making process by predetermining decisions about the scale and location of new development that are central to the emerging plan. Moreover, the proposals do not result in an overdevelopment of the site. Rather, the proposed development would create an attractive residential environment and would be of a density compliant with Policy DP3 of the adopted East Lothian Local Plan 2008. There is, or could be subject to developer contributions, sufficient educational capacity and other infrastructure to serve the proposed development. In light of all of the above, the proposed development of the site for 102 dwellings is acceptable.

The applicant has submitted a Flood Risk Assessment which assesses to impacts of the development on flooding, including pluvial flooding caused by rain, which is found to be of moderate to high likelihood. However, this will be mitigated by the on-site drainage systems including SuDs attenuation features which will reduce the risk of pluvial flooding to 'low'. The Scottish Environment Protection Agency (SEPA) has considered the information submitted and raises no objection to the proposed development on the grounds of potential flood risk. The Council's Flooding and Structures Service raise no objection.

A number of concerns have been raised by members of the public in relation to the flooding of properties on St Germain's Terrace. The Council, as flooding and roads authority, is continuing to work towards a solution in this respect. However, it has been satisfactorily demonstrated that the proposed development would not exacerbate the flooding which has occurred at these properties and sufficient measures are proposed on site to mitigate the effects of the proposed development on the surrounding area.

A noise assessment has been submitted in relation to predicted noise from Road Traffic using the A1 located to the North of the site. The Council's Environmental Health Manager raises no objection to the proposed development and confirms that he accepts the findings of the report and the recommendation to provide an acoustic fence along the northern boundary. Therefore, the potential noise impacts from the A1 road on residential amenity can be satisfactorily addressed if a condition is attached requiring the erection of the acoustic fence along the northern boundary of the site and this would comply with Policy NH13 of the ELLDP.

The Council's Environmental Health Manager has considered the Air Quality Impact Assessment submitted with the application. He has confirmed that he is satisfied that impacts upon local air quality will be negligible and no exceedances of Air Quality Objectives are predicted. Therefore, the proposal would not exacerbate air quality issues to an unacceptable degree and would comply with Policy NH12 of the ELLDP. The Environmental Health Manager does note there are no proposals for Electric Vehicle Charging Points in the layout plan and has suggested these are provided. Although these are desirable and their installation has been discussed with the applicant, there are unresolved issues of who would install or maintain and run such charging points and there is no current policy requirement for these on site.

The site is within a Coal Authority High Risk Development. A Coal mining Risk Assessment was submitted with the application and The Coal Authority was consulted on this document. In February 2018 The Coal Authority objected due to substantive concerns and requested intrusive site investigations and the establishment of the exact position of mine entries. A revised report to address these concerns was submitted on 23 July 2018 and the Coal Authority re-consulted.

On 20 August 2018 The Coal Authority advised that they were content that a thorough assessment of the coal mining risks associated with this site has been carried out. They confirmed that their objection had been addressed subject to a condition requiring ground stabilisation works to be carried out as detailed in the phase 2 report submitted by the applicant. Therefore, the coal mining legacy issues can be adequately addressed by condition.

The Council's Contaminated Land Officer has reviewed the site investigation reports and raises no objection. He confirms that he is satisfied that the site investigation and subsequent risk assessments have been carried out in accordance with best practice guidelines and the relevant standards. He agrees that gas prevention measures will be required for any housing development in the northwest part of the site and that further gas monitoring and subsequent risk assessment is required to be carried out during the ground stabilisation works planned for the southwestern sector of the site. Therefore, gas monitoring issues can be satisfactorily addressed if a condition is attached detailing the specifications of the gas prevention measures to be installed.

Given the scale of the proposed development, if planning permission 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.

In summary, in the context of the site being part of housing allocation PROP TT7 of the East Lothian Local Development Plan, and in that its impacts in respect of amenity and technical considerations are acceptable in themselves, or can be mitigated through the

appropriate use of planning conditions and necessary developer contributions, the significant material considerations of this case supports the proposed residential development of the site. Although the number of units proposed is significantly higher than the pro rata number that would be expected on this part of the site, the site is capable of accommodating the proposed development including vehicular and pedestrian access and amenity space. A grant of planning permission would be consistent with Scottish Planning Policy: June 2014, SESplan Policy 7 and relevant East Lothian Local Development Plan policies which considerations outweigh the provisions of Policy DC1 of the adopted East Lothian Local Plan 2008.

## RECOMMENDATION

It is recommended that planning permission be granted subject to:

1. The undernoted conditions.
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:
  - (i) a financial contribution to the Council of £465,222 towards the provision of additional accommodation at Ross High School
  - (ii) a financial contribution to the Council of £362,100 towards the provision of additional accommodation at Macmerry Primary School;
  - (ii) 26 affordable residential units within the application site
  - (iii) a financial contribution to the Council of £ £38,510.10 towards the off site provision of sporting provision in Macmerry
  - (iv) secure a financial contribution to the Council of £19,335 for transport improvements. (Comprised of £1,203 for road improvements to Old Cragihall Junction, £928 for Salters Road Interchange, £4,491 for Bankton Interchange, £1,404 for Musselburgh town centre improvements and £11,309 for Tranent Town Centre improvements).
  - (v) secure a financial contribution to the Council of £50,184 towards a Segregated Active Travel Corridor
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 Macmerry Primary and Ross High School, a lack of provision of affordable housing, sports provision, 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 and ED4, DEL1, HOU3, OS4, T3 and T32 of the East Lothian Local Development Plan.

- 1 Prior to the commencement of development, final site setting out details shall be submitted to and approved in writing 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 the position of adjoining roads, land and buildings;
- b. finished ground levels and finished floor levels of the development relative to existing ground levels of the site and existing ground and road levels of adjoining land. 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 hereby approved, shown in relation to the finished ground and finished 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 Prior to commencement of development on site, full details of the proposed Sustainable Drainage System (SuDS) shall be submitted to and approved in writing by the Planning Authority.

The details shall include confirmation of Scottish Water's technical approval of the SuDS proposals.

Thereafter, the approved details shall be implemented as approved.

Reason:

To ensure that the final SuDS design complies with Sewers for Scotland 3 and can be vested by Scottish Water in the interest of flood prevention, environmental protection and the long term amenity of the area.

- 3 A play area with equipment suitable for children aged 5 to 12 years shall be provided on the area of open space of the application site which is to the south of plots 33 to 38, as shown on approved Development Layout 20489/A/02-01 G.

Prior to the commencement of development on site details of the play equipment and surfacing materials to be installed in the play area and a timetable for its installation shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the play equipment shall be installed in accordance with the details so approved. The equipped play area shall thereafter be retained in perpetuity and kept available for use.

Reason:

To ensure that suitable play equipment is installed and thereafter retained.

- 4 Prior to the commencement of development full details of the scheme of works to provide a signal controlled junction incorporating pedestrian/cycle crossing at the junction of the A199 with Greendykes Road as shown on drawing no.TP458/SK001 shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the signalised junction shall be installed and operational prior to the occupation of any dwelling on the application site.

Reason:

To ensure measures are implemented to control traffic at this junction to address the increase in anticipated vehicles movements from the proposed development in the interest of road safety.

- 5 Prior to the commencement of development details of the upgrading of the core path adjacent to the western boundary of the application site shall be submitted to and approved in writing by the Planning Authority. The details shall include a timetable for implementation.

Thereafter, the core path shall be upgraded in accordance with the details so approved.

Reason:

To allow the consideration of details yet to be submitted and ensure the core path through site TT7 is improved.



- 6 Notwithstanding the approved plans, measures shall be installed to prevent motorised vehicles from the road between plots 60 and 75 (as shown on layout 20489/A/02-01 G) accessing the core path along the western boundary of the application site.

Prior to the commencement of development details of the proposed methods shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the details shall be installed as approved prior to the occupation of any dwelling hereby approved.

Reason:

To allow the consideration of details yet to be submitted and ensure the implementation of measure in the interests of pedestrian and cyclist safety.

- 7 Within residential private parking areas the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings.

Reasons:

In the interest of road safety.

- 8 Prior to the commencement of development, a Construction Method Statement which sets out how the impact of construction activity on the safety and amenity of the area will be mitigated shall be submitted to and approved by the Planning Authority.

The Construction Method Statement shall include details of:

- \* Mitigation measures to control noise, dust, construction traffic (including routes to/from site).
- \* Hours of construction work
- \* Temporary measures to be put in place to control surface water drainage during the construction works
- \* Routes for construction traffic
- \* Wheel washing facilities.

The submitted Construction Method Statement shall state that there shall be no construction access to the site from Chesterhall Avenue.

Thereafter, the Construction Method Statement shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved.

Reason:

To retain control of the operation of construction in the interest of environmental and residential amenity.

- 9 Prior to the occupation of any dwelling hereby approved, details of a Green Travel Plan shall be submitted to and approved in writing by the Planning Authority. This should seek to encourage the minimisation of private car trips and increased use of active means of travel and the use of public transport.

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.

Thereafter, the Green Travel Plan shall be implemented as per the approved details.

Reason: To encourage sustainable and active travel in the interests of environmental and residential amenity.

- 10 Prior to the commencement of development on site details demonstrating how the site can be serviced for waste collection shall be submitted to and approved in writing by the Planning Authority. The details shall include a swept path assessment of the roads based on a 12 metre waste collection vehicle and details of any amendments to the site layout required for the safe and efficient waste collection on the development.

Thereafter, development shall be carried out in accordance with the approved details.

Reason:

To ensure that waste vehicles can access and service the site.

- 11 Prior to the commencement of development on site the implementation of stabilisation works as identified within the Report on Site Investigations prepared by Mason Evans Geo-Environmental Consultants (ref: P17/224 dated July 2018) and illustrated within Drawing No. P17/224/SI/R/F/11 shall be undertaken and confirmation of the completion of these works submitted to and approved in writing by the planning authority in consultation with The Coal Authority.

Reason:

To ensure that the stabilisation works proposed are carried out in the interest of health and safety and environmental protection.

- 12 Prior to the commencement of development a Design Statement detailing gas prevention measures to be installed and procedures to verify these measures shall be submitted to and approved in writing by the Planning Authority. Thereafter, the gas prevention measures and verification procedures shall be implemented as approved.

Prior to the occupation of any dwelling hereby approved, a Validation Report, detailing the satisfactory completion of the remedial works, shall be submitted to and approved in writing by the Planning Authority.

Reason:

To allow the consideration of details to be submitted and ensuring that the installations are fit for purpose in the interests of environmental protection.

- 13 A scheme of landscaping shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide details of: the height and slopes of any mounding on or re-contouring of the site including SUDS basin/ponds details; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting.

The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

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

Reason:

To allow the consideration of details yet to be submitted and in the interest of residential and environmental amenity.

- 14 The communal landscape areas as defined on the drawing titled Master Feu Layout 20489/A/FEU-01B shall be maintained by a factor, residents association or other suitable organisation.

Prior to the occupation of any residential unit hereby approved, details of the maintenance arrangements shall be submitted to and approved in writing by the Planning Authority.

Thereafter, these maintenance arrangements shall be implemented as approved.

Reason:

To ensure the retention and maintenance of landscaping on the site in the interest of amenity.

- 15 Notwithstanding the approved plans, prior to the occupation of any dwelling hereby approved, an 1.8 metre high acoustic fence shall be erected along the whole length of the north-western boundary of the application site, as indicated on Figure 4 and in compliance with Section 4.4 of Noise Report of 01st April 2018 prepared by Charlie Fleming Associates.

Thereafter, the fence shall be retained in perpetuity.

Reason:

To mitigate the predicated impact of noise associated with road traffic on the A1 on residents and ensure compliance with the lower guideline value for daytime garden noise levels of 50dBLAeq,T specified in paragraph 7.7.3.2 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings" in the interest of residential amenity.

- 16 Unless otherwise approved in writing by the Planning Authority:  
(a) Housing completions 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:  
.\* Years 19/20 - 10 dwellings completed  
.\* Years 20/21 - 35 dwellings completed  
.\* Years 21/22 - 35 dwellings completed  
.\* Years 22/23 - 22 dwellings completed

(b) If fewer than the specified number of residential units is completed in any one year then those shall be completed instead at Year 23/24 or beyond and not added to the subsequent Year.

- 17 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.

- 18 The boundary treatments shall be implemented and shown on approved plan 20489/A/02-03 D, docketed to this permission, prior to the occupation of the 100th house, unless otherwise agreed in writing with the Planning Authority.

Reason:

To ensure fencing and walls are implemented as detailed in the application in the interests of privacy and amenity.

- 19 Prior to the commencement of development on site full details of the proposed bin presentation areas within the application site shall be submitted to and approved in writing by the Planning Authority. These details shall include ground finishes, boundary treatments and the design and position of signage to identify which dwellings are to use each area. Thereafter, the details shall be implemented as approved.

Reason:

To allow the consideration of details yet to be submitted and in the interests of residential amenity.