

PLANNING COMMITTEE
WEDNESDAY 3 OCTOBER 2018

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

**TUESDAY 4 SEPTEMBER 2018
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

1

Committee Members Present:

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

Other Councillors Present:

Councillor J Henderson

Council Officials Present:

Mr I McFarlane, Service Manager – Planning
Ms W McGuire, Acting Service Manager – Strategic Investment
Mr C Redpath, Team Manager – Roads Engineering
Mr K Graham, Solicitor
Ms E Clelland, Planner
Mr M Greenshields, Senior Roads Officer
Ms M Haddow, Transportation Planning Officer
Mr G McLeod, Transportation Planning Officer
Ms J Mackay, Media Manager
Ms T Barson, Management Systems and Administration Officer

Clerk:

Ms A Smith

Visitors Present/Addressing the Committee:

Item 2 – Mr T Thomas, Mr C Hamer, Mr J Finlay, Mr L Main, Mr M White
Item 3 – Mr R Holder

Apologies:

Councillor W Innes

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 21 AUGUST 2018

The minutes of the meeting of the Planning Committee of 21 August 2018 were approved.

2. PLANNING APPLICATION NO.18/00016/PM: ERECTION OF 32 HOUSES, 4 FLATS AND ASSOCIATED WORKS AT LAND AT CASTLEMANS FARM, OFF STATION ROAD, DIRLETON

A report was submitted in relation to Planning Application No. 18/00016/PM. Iain McFarlane, Service Manager – Planning, presented the report. He informed Members that subsequent to publication of the report and following discussion regarding Condition 6, the applicant had requested that rather than the Road Traffic Order being a pre-development condition that the requirement be prior to occupation of any residential unit, as the process of a Road Traffic Order was in the control of the Council rather than the applicant and could take some time. Road Services agreed that this would be acceptable and therefore the wording of this condition would be changed accordingly. Mr McFarlane then summarised the key points. He referred to objections received from, amongst others, Dirleton Village Association (DVA), the Association for the Protection of Rural Scotland (APRS) and drew attention to consultee responses. The report recommendation was to grant consent.

Mr McFarlane responded to a series of questions from Members. He clarified that the allocation for this site in the ELLDP was circa 30 homes; this proposal was for 36 units, including 10 affordable units. He advised that numbers within allocated sites could increase, the key material considerations being whether the design and density were appropriate for the site. He added that if an application came forward for a higher number of units this had to be considered. He clarified, in relation to the shift from 24 units in the original development plans to 30 in the ELLDP that changes in school roll projections and the educational capacity assessment allowed for this and in this instance, the Education Authority was satisfied that the capacity was available.

Regarding queries about the response from the Health and Social Care Partnership (HSCP), Mr McFarlane stated that the HSCP's assessment of the application was that whilst they had concerns about the 20% increase in the number of units, these concerns were not strong enough to raise an objection.

In respect of the lack of response from Scottish Water, Mr McFarlane advised that as a general principle this consultee tended not to comment on planning applications. Officers had to consider whether to go ahead with an application without such a response.

Responding to questions about the Development Brief, the ELLDP and compliance, Mr McFarlane outlined the process and timeline for the Development Briefs through the processes of consultation to the timescale for their adoption. He clarified that these remained draft documents and as such, there was a limit to how much weight they could be given. He acknowledged that the proposal did not fully accord with the Development Brief but said to state that it bore no resemblance, as indicated by the DVA, was not correct.

As regards the DVA's view that the proposal would have an adverse impact, he said there was a degree of interpretation, there were differing views but the judgement of officers and Historic Environment Scotland (HES) was that the proposal would not have an adverse impact. Responding to further questions about impact, he stressed that the key questions were fundamentally about site capacity, density, mix and design. Mr McFarlane responded to queries about housing density, Policy DP3, outlining the background to this policy and referring to recent reviews of applications and their compliance with that policy. Responding further, he stated that the density of Dirleton itself was the key consideration, officers assessed whether the proposal was appropriate to the relationship with the village. The

density proposed was suitable for a rural village development. Regarding the affordable units, East Lothian Housing Association would take these forward, for social rent.

Tony Thomas of APT Planning and Development Ltd, agent for the applicant, stated that the Castlemains site was the preferred site as allocated in the ELLDP. There had been thorough engagement with HES and Council officers. He outlined the main elements of the proposal. Considerable engagement had taken place with DVA and Gullane Area Community Council (GACC). DVA acknowledged the implications of the ELLDP but had a differing view about how the housing should be delivered. The applicant's design concept would deliver a complementary, carefully considered, addition to the eastern edge of the village, in keeping with the settlement pattern of villages in the county. There would be a landscaped meadow at the foreground of the development as seen from the A198. He stated that, as with many other settlements Dirleton would expand; this design was sympathetic to its context and would deliver a variety of homes, including 10 affordable units.

Mr Thomas responded to questions. In relation to the 20% increase, he said that in creating an appropriate layout, 36 units was a suitable number, which sat comfortably within the site. Regarding departing from the Development Brief he stated the site had to be developed in the most appropriate way, the brief had very limited materiality at present.

Responding to further queries Mr McFarlane reiterated that because the Development Briefs, prepared in association with the ELLDP, remained draft documents, they could not be accorded significant weight. He reiterated the process outlining the context of the different documents. Regarding consultation with the DVA, Mr Thomas referred to meetings about the draft plans and discussions in respect of the 'Dirleton Expects More' document. He stated that HES did not support the DVA's proposal for an inward looking development.

Carl Hamer, representing the DVA, spoke against the application. The DVA's primary objection was that the proposed development would dominate the setting and have an adverse impact on Dirleton Castle. The site brief in the ELLDP stipulated conservation led design that maintained conservation status. This suburban design, in front of the castle, failed to meet this brief. The proposed development would detract from and compete with views of the castle. Houses and streets must be kept out of sight lines. He urged Members to reject this application, to have a more suitable design for this site as per the DVA's suggestion. This suburban development was not appropriate for its setting.

John Finlay spoke against the application. Scotland's heritage was priceless; he expressed his strong objections to the proposal and the effect it would have on Dirleton's built heritage. Dirleton Castle was one of the oldest and most important castles and the grounds recognised as historically designated landscape. Analysis suggested that this development would obscure 60% of the castle. The proposed design was alien to the village character. It was a suburban development on a hugely visible site. He highlighted changes to the site brief, including higher roofs and units of 1.5 storeys; the development would have a huge impact and be dominate in scale. The developer should be asked to redesign the proposal.

Responding to questions about the height difference he had shown in his presentation Mr Finlay said the existing houses sat low at the current edge of the village; the proposal for the new houses was at elevated ground level. Mr McFarlane acknowledged that the new houses would be higher than the ones on Castlemains Place but stated there was a condition attached to the grant of planning permission regarding finished ridge levels.

Lawrie Main, a local resident, spoke against the application on behalf of his family. The Council had made clear that Castlemains was the preferred site but had said that development would only be allowed if strict guidelines set out in the Development Brief were followed. It stated there would be no new entrance at Station Road, buildings on the southern side would be no higher than single storey and must have frontages that reflected

Castlemains Place and should match the height of the existing houses. This proposal went against all these guidelines. He urged Members to stand by their previous commitment and refuse this application.

Martin White, representing the GACC, stated that Dirleton Castle was one of East Lothian's top visitor attractions and mattered greatly to the county. The Reporter, in relation to the ELLDP, had corrected the Council's assessment of the site to protect the view to and from the castle. This proposal impacted on the views and setting of the castle. Scottish Planning Policy was clear, an 'impact' was only allowed in exceptional circumstances; this was not an exceptional circumstance. This proposal was unacceptable; castles should not be screened.

Local Member Councillor Findlay stated that local residents did not object to houses on this site but rather to the design proposal. In relation to the number of units, from 30 as allocated in the ELLDP to 36, this was a concern. Referring to the HSCP's comments, he was surprised that stronger concerns had not been expressed. The Reporter had amended the ELLDP to state that the view to and from Dirleton Castle should be protected. He felt that the proposed development would have a harmful effect. The Development Brief stated that buildings should not be higher than 1.5 storeys. The APRS, DVA, GACC and 71 local residents had all submitted objections. HES's decision not to object should not be taken, in their words, as a statement of support. The developer should rework the plans and consult further. He would not be supporting the application.

Local Member Councillor Henderson, not a member of the Planning Committee, referred to the urbanisation of the county and the loss of agricultural land. She accepted that the Castlemains site was delineated in the ELLDP but stressed there should be no compromise as regards design of the development. She was unhappy with the comments by HES. She highlighted the key objection from APRS. This proposed development was not right in its setting and could not be supported.

Councillor Small acknowledged that the ELLDP was in its final stages but felt that the views and concerns expressed by local residents could not be ignored. Members had to act sensitively, a decision that affected Dirleton Castle would have ramifications for many years. The DVA's work and approach was an exemplar of what a community should be doing; they accepted that development would happen and he supported their attempt to engage and look for what was best for Dirleton. This new housing did not take account of the wider context. He also referred to the 20% increase in number of units and the danger of setting a bad precedent. He would not be supporting the application.

Councillor McMillan referred to presentations from the agent and the various objectors. He noted that many of the guiding principles set out in the Development Brief, although not a material consideration, had been met. Statutory consultees felt the proposal was acceptable, including HES. He noted comments made about the height of the buildings but, on balance, would be supporting the report recommendation.

Councillor Currie referred to discussions regarding the Development Brief; he felt there were contradictions between this and the ELLDP and the weight accorded. This report was in advance of adoption of the ELLDP. The Development Brief, in his view, was a material consideration in the decision making process in determining planning applications. The major point was the impact on Dirleton Castle and the environment. He would not be supporting the application; the proposed development would have a detrimental impact.

The Convener noted the strong feelings against the application from the community, however the Council had made the decision that development would take place on this site and it was included in the ELLDP. Regarding the increase in the number of units, an increase from the allocated numbers in the ELLDP had occurred beforehand in developments, to get maximisation numbers on site. In respect of the impact on Dirleton

Castle, he stressed that neither HES nor the Council's Heritage Officer objected to the application. He felt the proposal was for a quality development, which would enhance Dirleton. He would be supporting the recommendation to grant planning permission.

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

For: 4
Against: 7
Abstentions: 0

Decision

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

The proposed development was an unacceptable form of suburban development at odds with the Dirleton Conservation Area and harmful to the setting of the listed building and Scheduled Monument of Dirleton Castle, contrary to policies ENV3, ENV4 and ENV7 of the adopted East Lothian Local Plan 2008 and Policies CH1, CH2 and CH4 of the Proposed East Lothian Local Development Plan.

3. PLANNING APPLICATION NO.18/00090/PM: ERECTION OF 94 HOUSES, 8 FLATS AND ASSOCIATED WORKS AT GREENDYKES FARM, MACMERRY

A report was submitted in relation to Planning Application No. 18/00090/PM. Esme Clelland, Planner, presented the report, informing Members that subsequent to publication of the report, following discussions with the applicant, changes had been requested to the wording of Condition 16; the Education Authority had accepted these changes, revised wording:

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 - 45 dwellings completed
- * Years 21/22 - 45 dwellings completed
- * Years 22/23 - 2 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

Ms Clelland summarised the key points, including reference to this application being for part of the site proposed to be allocated by the Proposed Local Development Plan and that this together with an application for the remaining part of the site would result in development of some 240 units rather than the 150 proposed in the allocation. The report recommendation was to grant consent.

Ms Clelland and other officers responded to questions. Regarding the main route, which was the road to the primary school, and the possibility of restricting traffic movement timings, Ms Clelland referred to Condition 8, the Construction Method Statement, which would take this into account. She provided further details of the site road design in relation to queries about traffic calming. She clarified that the traffic assessment indicated that traffic calming was not deemed necessary. Mr McFarlane referred to the Council's Design Standards and provided information generally in respect of the application of traffic calming measures within developments. Following further queries, he confirmed that Members could, if desired, request another Road Safety Audit. Regarding the junction at Greendykes Road and the proposed traffic lights, Ms Clelland advised that the traffic assessment had specifically looked at this junction and concluded that it had capacity. Marshall Greenshields, Senior Roads Officer, added that a detailed assessment of that junction would be carried out, as would a Road Safety Audit.

In respect of ongoing flooding problems in the area, Ms Clelland confirmed that the Flood Risk Assessment set out how surface water flooding would be dealt with; it would not be exacerbated by the proposed development. Callum Redpath, Team Manager – Roads Engineering, stated that officers were working with the developer regarding options; he added that this development might actually provide an opportunity for a positive drainage connection, which could provide resolution for these longstanding problems.

Regarding affordable housing, Ms Clelland advised that this would be located in two different groupings within the site and would be taken forward by the Council for social rent. In relation to the factoring of open spaces, she drew attention to Condition 14, which detailed the requirements. In response to questions about safe routes to school, cycle paths and the Green Travel Plan, she gave further details of the layout and positioning of the open spaces, core paths and pedestrian/cycle links within the site.

Robin Holder of Holder Planning, agent for the applicant, said he would not make a presentation but rather would respond to points raised. Construction traffic/school: the Construction Method Statement would deal with this; school hours would be taken into account. Volume of traffic: as mentioned a Road Safety Audit was required, this could be extended to include the internal road network. Flooding: discussions were ongoing looking at ways to resolve the current problem. Density: the proposed density would be 32.6 units per hectare; this was appropriate development of the site. Permeability issues: this was a relatively small site so close to local facilities that people would walk or cycle. He confirmed that an additional condition proposing a Road Safety Audit would be acceptable.

Local Member Councillor McGinn welcomed discussion about the traffic issues and looked forward to the Road Safety Audit. A key point was flooding at St Germain's Terrace and he was pleased to hear there was a real possibility that this new development would have a positive impact for existing residents. He would be supporting the report recommendation.

Local Member Councillor McLeod stated he would be supporting the report recommendation but did have some concerns, primarily flooding and the impact of the development on local services, including the GP surgery. He welcomed the affordable housing element and was pleased that the Council would be taking this forward.

Councillor Small indicated he was heartened by the feedback from the agent. He would be supporting the recommendation in the report.

Councillor Currie referred to road safety issues and increase in traffic volumes. He was however satisfied with responses in relation to traffic matters but asked that the Road Safety Audit informed consultation with local members. He would be supporting the application.

Councillor McMillan supported these points. He highlighted the importance of the creation of good places as mentioned in the report. He hoped the Green Travel Plan would be discussed with local members. He would be supporting the application.

The Convener moved to the vote on the report recommendation (to grant consent) subject to a) the amendment to Condition 16 as outlined and b) the addition of a new condition, Condition 20 in respect of the Road Safety Audit, the specific wording of this condition to be agreed between the Convener, local members and officers:

For: 11
Against: 0
Abstentions: 0

Decision

The Committee agreed to grant planning permission 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 - 45 dwellings completed

. * Years 21/22 - 45 dwellings completed

. * Years 22/23 - 2 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:

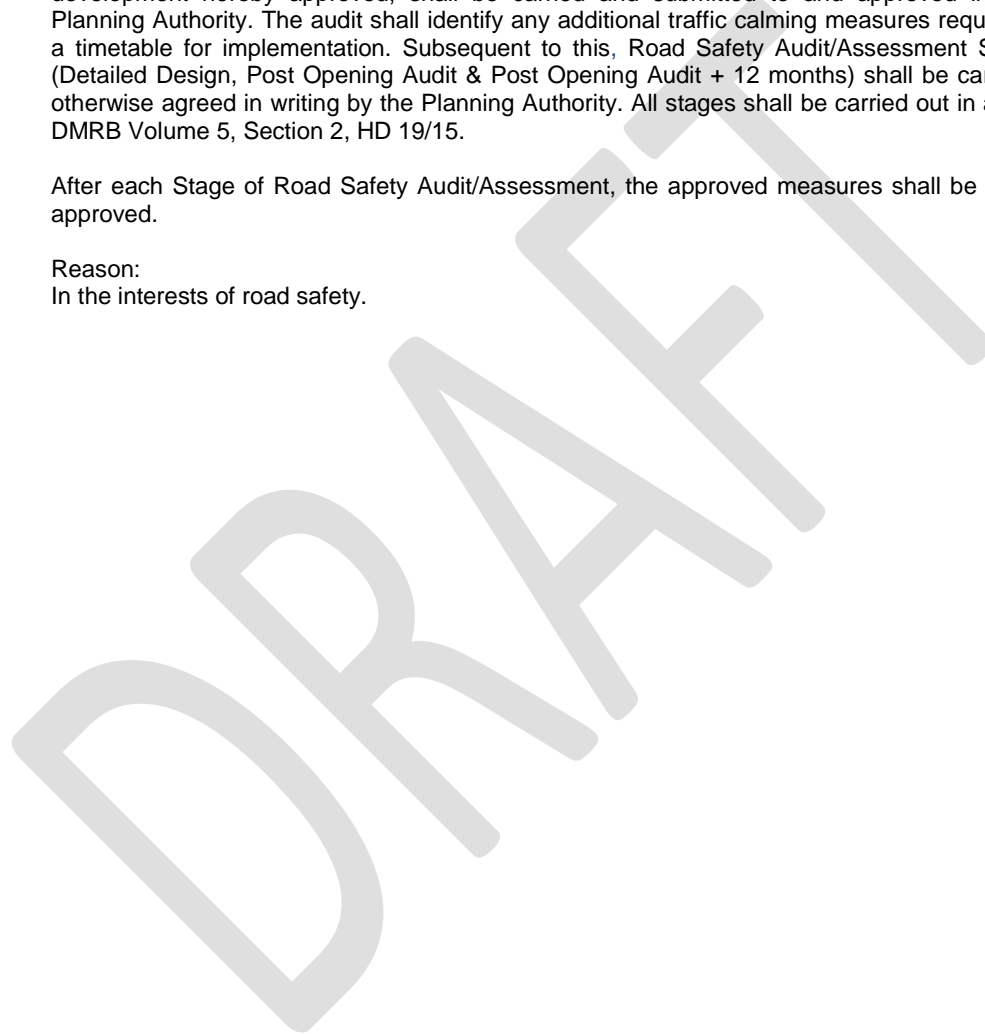
To allow the consideration of details yet to be submitted and in the interests of residential amenity.

- 20 Prior to the commencement of development on site a Stage 1 Road Safety Audit/Assessment of the road network from the junction of Greendykes Road and the A199 to the eastern access points of the development hereby approved, shall be carried and submitted to and approved in writing by the Planning Authority. The audit shall identify any additional traffic calming measures required and include a timetable for implementation. Subsequent to this, Road Safety Audit/Assessment Stages 2, 3 & 4 (Detailed Design, Post Opening Audit & Post Opening Audit + 12 months) shall be carried out, unless otherwise agreed in writing by the Planning Authority. All stages shall be carried out in accordance with DMRB Volume 5, Section 2, HD 19/15.

After each Stage of Road Safety Audit/Assessment, the approved measures shall be implemented as approved.

Reason:

In the interests of road safety.



Signed

Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee
MEETING DATE: Wednesday 3 October 2018
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

2

Application No. **17/00488/PM**
Proposal Erection of 68 houses and associated works
Location **Land To South Of Brodie Road**
 Dunbar
 East Lothian
Applicant Persimmon Homes East Scotland and Hallhill Developments
Per EMA Architecture & Design Ltd
RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

As the area of the application site is greater than 2 hectares and the 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 proposal was the subject of a Proposal of Application Notice (Ref: 12/00004/PAN) and 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 submitted informs that some 23 people attended the pre-application public exhibition, which was held at The Hallhill Healthy Living Centre between the hours of 1400 and 1900 on 06th June 2012. An invitation was also made for Councillors to attend the exhibition on the same day before it was open to the public and a meeting held with Dunbar Community Council. The public event was advertised in local papers and the applicant advises that posters were displayed locally to promote awareness of the event. The Pre-application Consultation report states that attendees were

encouraged to complete questionnaires and nine were received with various comments. The applicant has summarised that the main concerns expressed related to the inclusion of affordable housing and the impact on property values from social housing, the impact on local services and perceived traffic related impacts. The report notes that the number of houses proposed on the site has been reduced from an initially intended number.

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 2.6 hectares of arable agricultural land located on the south edge of Dunbar. The site is allocated for a hotel use by Policy TOUR4 (Lochend/Hallhill Hotel, Dunbar) in the adopted East Lothian Local Plan 2008.

The application site constitutes the majority of site DR4 Brodie Road allocated for housing in the East Lothian Local Development Plan (ELLDP). There is a draft design brief for the site.

The application site is slightly smaller than the DR4 allocated site. A section of the community woodland and a strip of field remain outside the application site boundary to the northwest. Beyond the community woodland and adjacent to the southwest of the site is a public path which is part of the core path network (no.45) and a safe route to school to Dunbar Primary. To the south, the site is bounded by a stone wall and public footpath beyond which is a strip of landscaping and the A1 trunk road. To the north the site is bounded by Brodie Road, beyond which is residential development. To the west the site is bounded by a stone wall and public footpath which is part of a Right of way leading north to the centre of Dunbar and south to Easter Broomhouse Cottages. Beyond this to the west is a recent housing development. The application site is on land forming part of the Battle of Dunbar II battlefield which is listed on the Inventory of Historic Battlefields.

Planning permission is sought through this application for the erection of 68 houses. The application was originally submitted for the erection of 73 dwelling houses and 8 cottage flats. Discussion took place with the applicant and concerns were raised over the design and layout of the proposal. On 27 April 2018 amended plans were submitted which reduced the number of units to 68 houses. Due to the extent of the changes, the application was advertised and re-notified to allow further public consideration and comment.

In addition to the reduction in overall unit numbers several small amendments have been made to the layout and design resulting in the submission of revised site layout plans, sections and SUDS details.

The development site layout plan shows how the proposed 68 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 proposal also includes significant importation of material to raise the ground levels across the site to tie in with Brodie Road and the paths to the south and west. The site would slope steeply down towards the woodland at the eastern side.

The proposed houses would comprise of a mix of detached, semi-detached and terraced houses (36, 8 and 24 respectively). The houses would all be two-storey with predominantly rendered walls and pitched roofs, clad in grey tiles. There would be some variation in house size; 13 would contain 2 bedrooms, 18 would contain 3

bedrooms, 34 would contain 4 bedrooms and 3 would contain 5 bedrooms.

Of the 68 units 17 would be for affordable housing. Of these, 10 are proposed for low cost home ownership (LCHO) and 7 units would be for the provision of social rented housing. The affordable housing units would all be terraced and would comprise the 13 houses containing 2 bedrooms on site and the remaining 4 would contain 3 bedrooms.

Vehicular access to the site would be taken from Brodie Road by way of two new vehicular accesses in addition to an access to parking court. One would be located in the north west corner of the site and the other would be located to the south west of the junction of Brodie Road and Steadings Crescent. A pedestrian footpath would run across the site and link the path on the west side to the core path on the east. There would also be a pedestrian path across the open space in the centre of the site that would connect to the existing path to the south.

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 which 6 houses front would front onto and which would link to the existing path to the south. Additional informal open space would be provided around the SuDS basin and in a strip along the west of the site.

A noise attenuation barrier comprised of a 2 metre high bund topped by a 1.8 m acoustic fence is proposed along part of the southern boundary.

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 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA.

On 27 July 2017 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;
- * Phase 1 Habitat Survey
- * Bat Presence/ Absence Survey (July – August 2018)
- * Tree Survey and Arboricultural Constraints (August 2017)
- * Update to Noise Assessment (February 2018)
- * Drainage and SuDS Strategy (May 2018)
- * Design Statement (May 2018)

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 proposals and Proposal TOUR4 (Lochend/ Hallhill Hotel) and Policies ENV1 (Residential Character and Amenity), 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 DR4: Brodie Road, Dunbar 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.

No written objections have been received in respect of this application.

1 written representation has been received. They do not state if they object to or support the proposed development. The representation questions when construction will begin and raises concern about their house value.

The impact of the proposed development on the value of a house is not a material planning consideration. The application does not state when development would commence.

Dunbar Community Council provided comment on the original application for 73 houses and 8 flats which was discussed at their meeting on 17 July 2017. They note the Community Council's support for development of this area of land for housing as allocated in the ELLDP. They expressive their preference for a small number of units on the site and consideration given to providing single storey units and affordable units dispersed through the site. They have asked for consideration to be given to safe routes to school and public transport links. They have also asked that due consideration is given to the SuDS system and its long term maintenance and measures to minimise construction affecting existing residents.

Dunbar Community Council provided additional comment after the proposal was revised to 68 houses, which was discussed at their meeting on 21 May 2018. They note the reduction in the number of housing units proposed and reiterated that they hope there will be smaller affordable housing units provided on the site, including social rent, which there are a shortage of in the area.

The applicant has proposed a raised table on Brodie Road at the northeast corner of the site which is a 'safe route to school'. They have also proposed a bus stop on Brodie Road. Road Services have also requested some traffic calming in the vicinity of the double driveway nearest to west-most access of the development. Conditions can be attached to any consent requiring evidence that the traffic calming is implemented, the SuDS meets Scottish Water's technical requirements and details of landscaping submitted and implemented.

The land of the application site is allocated for a hotel by Proposal TOUR4 of the adopted East Lothian Local Plan 2008. This was to reflect a 1998 outline planning permission. The proposed residential development is therefore a departure from Proposal TOUR4 of the adopted East Lothian Local Plan 2008.

Since the adoption of the East Lothian Local Plan, there has been no demand forthcoming for a hotel on the site. Moreover, a hotel has since been built at Spott Road, less than 2 kilometres from the site. The Council Economic Development Service confirm that they have no objection to the site being developed for housing. The site is no longer allocated for a hotel in the ELLDP, rather the site is allocated for housing. In all of this, there is sufficient justification to approve the residential development of the site as a departure from the Proposed TOUR4 of the adopted East Lothian Local Plan 2008.

One of the main stated outcomes of Scottish Planning Policy (SPP) is to create successful, sustainable places by supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places. Paragraph 33 of SPP 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.

Proposal PROP DR4 of the ELLDP allocates land for a residential development of circa 50 dwellings. The current application forms the majority of this site. PROP TT7 states "Land at Brodie is allocated for a residential development of circa 50 homes. A

comprehensive masterplan for the entire allocated site that conforms to the relevant 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 and on education and community facilities as appropriate”.

A draft design brief has been written for site DR4 site that has been approved by the Council for consultation and is intended for adoption as supplementary planning guidance.

The area of the current application, 2.6 hectares, comprises approximately 90% of the whole DR4 Brodie Road allocation of some 2.8 hectares. The current application seeks permission for 68 dwelling which would result in a 36% increase the circa 50 residential units referred to in Proposal DR4.

The site is within an area of Dunbar II Battlefield as listed on the Inventory of Historic Battlefield. Historic Environment Scotland raise no objection to the proposal. The proposed development would not harm the key landscape characteristics and special qualities of the Battlefield site.

It is 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.

Due to the constraints on site there is not the opportunity to provide vehicular links to the existing housing to the east and west. However, it is adjacent to Brodie Road and

roads are taken directly from here to the site. The site benefits greatly from the nearby existing path network, including a safe route to school. Pedestrian links connect to the core path to the east, right of way to the west and public path to the south. A central area of open space would be overlooked and link to the cycle and walking network to the south.

All the houses next to Brodie Road face towards it without driveways to the front of the houses. This will provide an attractive street setting which is not dominated by parking. Although many of the houses within the development do have parking to the front, there is also a mix of parking courts and side driveways. The roads inside the site have been designed to have only short sections of straight road to encourage lower vehicle speeds. 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 approximately 38 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. Fourteen different house types are proposed. The proposed houses would comprise of a mix of 36 detached, 8 semi-detached and 24 terraced houses. There would be some variation in house size; 13 would contain 2 bedrooms, 18 would contain 3 bedrooms, 34 would contain 4 bedrooms and 3 would contain 5 bedrooms.

Of the 68 units 17 would be for affordable housing. Of these, 10 are proposed for low cost home ownership (LCHO) and 7 units would be for the provision of social rented housing. The LCHO units are the 'Portree' house types on the layout plan and located in the northwest, west and south east areas of the site. The 7 units for social rent would be located in the southeast corner of the site. The affordable housing units would all be terraced and would comprise the 13 houses containing 2 bedrooms on site and the remaining 4 would contain 3 bedrooms.

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 Dunbar. 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.

Slight variation to the standard house types, which have additional gable windows, have been located on three key corner plots, (37, 40 and 68). This detail will provide a limited additional outlooks for residents and some additional interest in the appearance of the housing layout from areas of public open space.

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 in the centre of the southern part of the site. It would be overlooked 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. He advises that the scale of this development does not warrant stand-alone equipped play provision. Provision does exist within an accessible radius, including an existing equipped play area to the west of the site which can be accessed by a pedestrian footway and existing safe routes to school at the Hallhill Healthy Living Centre. Therefore, no equipped play would be required in the case of this development.

Smaller areas of open space are also proposed along the western side of the site, the south east corner and around the proposed SuDS basin. These areas will allow informal play and recreation and add to the visual amenity sense of place on the site.

In addition to the on-site open space, The Council's Sports Dev & Community Recreation Manager has advised the LDP identifies, as a cumulative result of the housing in Dunbar, the need for 1 x full size grass sports pitch and 2 team changing provision located at Hallhill Healthy Living Centre. The Developer Contributions Framework outlines a contribution requirement of £979.80 per dwelling as a result. The £979.80 figure is based on an assumed 50 dwellings at Brodie Road. As the proposal is for 68 houses the required amount per dwelling for all sites in Dunbar is reduced to £945.42 per dwelling. This would give a total requirement for the site of £64,289. 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. The proposal therefore complies with policies C1 of the Local Plan and OS3 and OS4 of the ELLDP.

In respect of landscape matters, a small number of low quality trees are expected to be lost along the western boundary. The woodland to the east is a sufficient distance outwith the site to not be significantly affected. Tree and hedge planting is proposed throughout the site, including to the east of the SuDS basin, in the south east corner and along the western boundary. This would help to soften the edge of the development and integrate it visually with the woodland to the east. Mounding and tree planting is proposed in the main area of open space to add interest and encourage natural play. Walls with fencing on top are proposed next to public areas to provide a more attractive and substantial boundary in such key areas of the development. The existing stone wall along the southern boundary and the section of stone wall along western boundary nearest Brodie Road are to be retained and a condition can be imposed requiring repair as required. Such features would help to add to the sense of place of the development. The applicant has specified on drawing DR4-02-02 the areas which are to be maintained by a factor.

There is significant land raising proposed across the site to bring ground levels up to the levels of Brodie Road and the paths to the west and south. This will result in the developed site sloping steeply down at the eastern boundary. The applicant has provided sections to demonstrate the finished ground and floor levels. The rear garden

boundary fences have been positioned to the west of this slope to ensure that rear gardens are usable and do not suffer an acceptable loss of privacy. Some landscaping can be provided on the eastern slope to soften this edge. Therefore, overall the changes in levels would not have an unacceptable impact on the surrounding area.

To protect residential rear garden areas from unacceptable levels of noise from the A1 road to the south, a 2 metre high bund with a 1.8 metre fence on top is proposed along two sections of the site. The sections without the bund open out onto the open space and the frontages of houses. This bund would have steeply sloping sides. Although this would result in a large and potentially imposing feature, the applicant has revised the layout to minimise its extent to two fairly small sections. The relatively short sections of bund with the area of open space in the centre and the houses which front onto the path would ensure that the path would not feel too enclosed or unsafe for users. The slopes of the bund can be landscaped and would sit behind sections of stone wall.

The Council's Landscape Projects Officer raises no objection to the proposal. They note that proposed tree planting must take account of street lighting columns and suggests that hedgerows are planted to house frontages to mitigate the hard finishes proposed. They note that the SuDS feature proposed is a steep sided detention basin and recommend a continuous hedge planted along the northern side between it and Brodie Road. They also raise concerns over the proximity of the frontages of houses 1 and 2 to Brodie Road and suggest additional terraces may be more in character.

A landscaping condition can be attached to secure full details of planting and factoring arrangements. Although houses 1 and 2 are relatively close to the Brodie Road, they are roughly following the curve of the road and would give a strong frontage. Therefore, subject to conditions the landscaping proposals are acceptable.

The Council's Access Officer and Roads officer has requested that the path to the south of the site should be widened to 4 metres to provide a cycle and pedestrian route. The number of units proposed would not result in a significant increase in the use of this path to justify this requirement. It would therefore be unreasonable to insist on this requirement.

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. They are unable to confirm capacity at this time at Dunbar Waste Water Treatment Works. A formal application for connection to their systems will be required.

The drainage strategy (May 2018) states that one level of treatment is required and a detention basin is proposed in the north east of the site. The basin will not be fenced and efforts have been made to allow sufficient space around it for landscaping. 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. It is proposed to connect the outfall to the existing surface water sewer under Brodie Road. A condition can be attached requiring confirmation of Scottish Water's technical approval of the scheme prior to the commencement of development.

The Council's Flooding and Structures Service raise no objection to the proposal subject to conditions.

In terms of wildlife and biodiversity, the application site is currently an arable field with little biodiversity value. The Council's Biodiversity Officer raises no objection to the

application. The applicant has submitted a habitat survey which identified the potential for bat roosts within an areas of dense ivy on a section of wall in the southeast of the site. The report advises further bat survey work to confirm the presence or absence of bats prior to planning approval. This further work has been undertaken and confirms that bats are not present on the site.

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.

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 accommodate a 26 tonne, 12 metre Refuse Collection Vehicle without the need to reverse. The Council's Waste Services raise no objection to the application.

The submission of a construction method statement detailing how developers will mitigate the impact of construction on residents and the area can be conditioned. A raised table at the point where the 'safe route to school' crosses Brodie Road is proposed. A bus stop is also proposed on Brodie Road.

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.

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, 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, the proposed is for 68 residential dwellings and the site is allocated for approximately 50 dwellings.

The SEStran Regional Model (SRM) which informed the Transport Assessment supporting the East Lothian Local Development Plan was run using the assumption of 50 residential unit, as per the site allocation. Whilst this proposal has changed in scale to 68 units, this is within an acceptable margin not to require a re-run of the model to identify any changed level of impacts or contributions.

Policy INF3 of the adopted East Lothian Local Plan 2008 and Policy Del1 of the ELLDP 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 Brodie Road DR4 site the requirement for developer contributions towards each transport intervention as identified in the Developer Contributions Framework.

The contributions required for each intervention for this application are detailed below:

- * Improvements to Old Craighall junction (PROP T15) £221
- * Improvements to Salters Road Interchange and Bankton Interchange (PROP T17): £1,254
- * Musselburgh Town Centre improvements (PROP T21): £131
- * Tranent Town Centre Improvements (PROP T27 and T28) £258.

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £1864.

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 £33,456 for this site.

The total developer contributions towards the transportation interventions of £35,320 (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 Dunbar Primary Lower School, Dunbar Primary Upper School and Dunbar Grammar.

He advises that there is limited potential to provide additional capacity at these schools but do not object to the proposal based on the phasing provided by the applicant and subject to contributions towards additional capacity and facilities at Dunbar Primary Upper and Lower Schools and Dunbar Grammar.

The required payment of a financial contribution of a total of £667,080 towards the provision of additional accommodation at Dunbar Primary Upper and Lower Schools and Dunbar Grammar 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.

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

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 68 residential units, or 17 units, require to be affordable housing. The location of the houses for social rent and LCHO are located in three areas across the application site resulting in the affordable housing being sufficiently integrated into the overall development.

The Economic Development & Strategic Investment Manager advises that the proposed mix and location of affordable units has been confirmed as acceptable, however, the delivery mechanism is still to be agreed although the mix of social rent and discounted sale would be acceptable on the provision that the units for social rent met the necessary Scottish Government criteria and the LCHO units would be required to satisfy the Council's affordability criteria. Agreement has yet to be reached in relation to the sales price and if this price is not accepted as affordable then it is proposed that these units could revert to social rent also.

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 has advised that they have no concerns about the ability of the service to support the 68 housing units and raises no objection to the proposal. They do note that the proposed unit numbers constitute a 36% increase on the 'circa 50' figure given in the ELLDP allocation and that if this increase in unit numbers was replicated across all allocated ELLDP sites it may create unsustainable pressures on East Lothian's GP practices.

This application proposes the erection of 68 residential dwellings which is above the number of units the DR4 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 68 dwellings is acceptable.

A noise assessment has been submitted in relation to predicted noise from Road Traffic using the A1 located to the south 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 bund and fence along the part of the southern 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 southern

boundary of the site and this would comply with Policy NH13 of the ELLDP.

The Council's Contaminated Land Officer advises that there are not likely to be any contaminated land issues associated with the site and raises no objection.

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 DR4 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 higher than the 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 Proposal TOUR4 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 £152,864 towards the provision of additional capacity and facilities at Dunbar Primary Lower School
 - (ii) a financial contribution to the Council of £294,916 towards the provision of additional capacity and facilities at Dunbar Primary Upper School;
 - (iii) a financial contribution to the Council of £219,300 towards the provision of additional capacity and facilities at Dunbar Grammar School
 - (iv) 17 affordable residential units within the application site
 - (v) a financial contribution to the Council of £64,289 towards the off site provision of sporting provision in Dunbar
- (iv) secure a financial contribution to the Council of £1,864 for transport improvements. (Comprised of £221 for road improvements to Old Cragihall Junction, £227 for Salters Road Interchange, £1,027 for Bankton Interchange, £131 for Musselburgh town centre improvements and £258 for Tranent Town Centre improvements).

(v) secure a financial contribution to the Council of £33,456 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 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 - 24 dwellings completed
- * Years 20/21 - 30 dwellings completed
- * Years 21/22 - 14 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 22/23 or beyond and not added to the subsequent Year.

Reason:

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

2 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.

3 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.

- 4 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.

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.

- 5 Prior to the commencement of development, 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 take account of the positioning of street lighting columns and 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. The scheme shall include a hedge along the northern boundary of the SuDS basin with appropriate complimentary tree planting.

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.

- 6 Prior to the commencement of development on site full details of the proposed bin collection point 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.

- 7 The existing stone walling along the south and south eastern boundary of the application site shall be repaired and retained, other than where demolition is required to facilitate the formation of new accesses to the site as shown on the approved site plan DR4-02-01 R docketed to this permission.

Prior to the commencement of development, details of the repairs to the stone wall, including a timetable for repairs to be undertaken, shall be submitted to and approved by the Planning Authority. The repair of the stone walling shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure the repair and retention of an existing feature that contributes positively to the visual amenity of the area.

- 8 The glazing and ventilation specification of any habitable rooms (living rooms or bedrooms) on dwellings shall be as shown in Figure 4 'Committed mitigation' of Appendix A of ITP Energised's updated Report Ref EDI_904 dated 26th February 2018.

Reason:

To mitigate the effects of predicted noise from the A1 road on the internal rooms of neighbouring dwelling houses in the interest of residential amenity.

- 9 Prior to the occupation of any dwelling hereby approved, an acoustic barrier comprised of a 1.8m acoustic fence on top of a 2m high earth bund shall be erected in compliance with the requirements of Figure 4 'Committed Mitigation' of Appendix A of ITP Energised's updated Report Ref EDI_904 of 26th February 2018. The fence shall have a mass of 10kg/m² or greater. The barrier shall have no holes or gaps either between individual panels or between the base of the fence and the top of the bund.

Thereafter, the fence and bund 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 guideline for daytime garden noise levels in the interest of residential amenity.

- 10 Prior to the occupation of the last house on the application site, the proposed access roads, parking spaces, and footpaths shall be constructed on site in accordance with the approved drawings docketed to this permission.

Driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m 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. Vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing. Within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres.

All prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres.

Reason:

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

- 11 Prior to the occupation of any house on site:
- i) Details, including a timetable for implementation, of traffic calming on Brodie Road in the vicinity of the double driveway from proposed houses 1 and 2 as shown on the approved drawings docketed to this permission, shall be submitted to an approved in writing by the Planning Authority. Thereafter, the traffic calming shall be implemented as approved
 - ii) Details, including a timetable for implementation, for a bus stop with appropriate hardstanding on either side of Brodie Road next to the application site shall be submitted to an approved in writing by the Planning Authority. Thereafter, the bus stops shall be implemented as approved.
 - iii) A factoring plan clearly showing the responsibilities for long term maintenance including of all roads and parking areas shall be submitted to and approved in writing by the Planning Authority.

Reason:

To allow the consideration of details yet to be submitted in the interests of road safety.

- 12 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 in accordance with the approved details.

Reason:

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

- 13 The boundary treatments for each dwelling shall be implemented as shown on approved 'Site Layout Plan DR4-02-01 R' docketed to this permission, prior to the occupation of that 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.

- 14 The communal landscape areas as defined on the drawing titled Open Space Layout DR4-02-02 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, unless otherwise agreed in writing by the Planning Authority.

Reason:

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

- 15 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.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)

REPORT TO: Planning Committee
MEETING DATE: Wednesday 3 October 2018
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

3

Application No. **18/00388/PM**

Proposal Restoration of ash lagoons no. 6 and 8, regrading works to ash lagoon no. 7 and associated works

Location **Site At Levenhall Links
Musselburgh
East Lothian**

Applicant Scottish Power Generation

Per Young Planning & Energy Consenting

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

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

As a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 17/00015/PAN) and thus of community consultation prior to this application for planning permission being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that some 43 people attended the pre-application community consultation event, which was held at the Fisherrow Centre, Musselburgh, on 8th February 2018, and that those attendees made a number of queries and suggestions regarding the proposals. The PAC report informs that feedback forms were received following the consultation event and that written feedback from the exhibition was generally supportive, with a number of attendees making some very positive statements in respect of the proposals.

The application relates to land at Levenhall Links, Musselburgh known as the Musselburgh Ash Lagoons. The application site covers an area of some 53.02 hectares and mainly consists of the very westernmost area of the Musselburgh Ash Lagoons (lagoon 8 and the western area of lagoon 7) and the very easternmost area (Lagoon 6) and includes access routes around the perimeter of the wider Levenhall Links, but excludes much of the central area where previously restored lagoons are located. The lagoons are on the seaward (north) side of the Musselburgh Race Course. The site carries a number of designations in recognition of its importance to wading birds and wildfowl. Lagoon 8 (along with lagoon 5 which is outwith this application site boundary) forms part of the Firth of Forth Special Protection Area (SPA) and the Firth of Forth Site of Special Scientific Interest (SSSI) and is recognised as a site of international importance under the Ramsar Convention. The easternmost side of the application site (lagoon 6) is outwith the area covered by the above nature designations but it is located within the Edinburgh Green Belt. The whole of the site is identified as being a Scottish Wildlife Trust Listed Wildlife Site (Musselburgh Shore and Lagoons). The John Muir Way and the National Cycle Network (route 76) runs along the northern edge of the application site. The westernmost side of the application site is an area defined by The Coal Authority as being a Coal Mining Development High Risk Area. The easternmost side of the application site is an area defined by The Coal Authority as being a Coal Mining Development Low Risk Area.

The application site is bounded to the north by the shoreline of Levenhall Links and on its western side by Fisherrow Sands and the River Esk, to the south by areas of open space including Levenhall Links Leisure Park and also in part by Musselburgh Race Course, to the southwest by the residential streets of the Goose Green area of Musselburgh, to the south east by the residential properties of Westpans, the B1348 public road of Ravenshaugh Road and at the far eastern side of the site by other open space land and a public car park.

The Musselburgh Ash Lagoons were constructed from the disposal of pulverised fuel ash (pfa) created from the operation of the former Cockenzie Power Station. Pfa was a waste product created from coal burning at the Power Station. The initial arrangements for disposal of ash at Levenhall Links were required under Condition 7(i)(a) of a consent issued on 13 December 1961 for Cockenzie Power Station by the then Secretary of State. The 1963 Musselburgh Agreement provides that the Lagoons be filled by pfa to an average height of 16 metres above ordnance datum, grassed and transferred into Council ownership.

Due to an increase in oil prices, the life of the power station was extended, resulting in the production of further ash. Planning permission (Ref: P/0370/83) was subsequently granted in October 1983, permitting the disposal of extra ash in newly created lagoons on top of those previously approved and for a landscape restoration scheme of the entire Ash Lagoons site.. That planning permission superseded the original consent as far as disposal of the ash was concerned.

A further planning permission (01/01209/FUL) was granted on 30th January 2002 for a different scheme of restoration for the lagoon on the north-western part of the Ash Lagoon site (lagoon 8) to that approved through planning permission P/0370/83 in order to take account of lagoon 8 being included within the then newly designated Firth of Forth Site of Special Scientific Interest. The scheme the subject of planning permission 01/01209/FUL was not implemented.

Cockenzie Power Station closed on the 21st March 2013 and no further disposal of ash is proposed. All but the two remaining ash lagoons at Levenhall Links (numbers 6 and 8) have been restored and transferred into East Lothian Council ownership. The two

remaining lagoons are the subject of a Pollution Prevention and Control (PPC) Permit, issued under the Pollution Prevention and Control (Scotland) Regulations 2012, for which the Scottish Environmental Protection Agency (SEPA) is the responsible Scottish Government agency. The PPC Permit requires the agreement of an Aftercare and Restoration Plan, to be implemented following the cessation of operations at the site.

This current proposal, which has been submitted by Scottish Power Generation, now seeks planning permission for an alternative scheme for the capping and restoration of lagoon 8, as well as a scheme for the capping and restoration of lagoon 6 and regrading works to lagoon 7 as part of the Aftercare and Restoration Plan related to the disposal of pfa from the former Cockenzie Power Station. These are the two remaining ash lagoons at Musselburgh Ash Lagoons which have not yet been restored. At present these lagoons have remained as in-filled lagoons with no capping material or landscaping. It is intended that following restoration of these last two ash lagoons that that ownership of them be transferred to East Lothian Council as per the requirements of the Musselburgh Agreement.

The proposals for lagoon 8 are designed to create a habitat similar to that which birds had when the lagoon was in operation. It would consist of wetland and roosting areas as well as a sand martin bank surrounded by a moat. Footpaths, bird hides, fences and hedges would be formed around the perimeter of the lagoon area. It is proposed that the existing mound of ash be graded across part of the area around lagoon 8 and lagoon 7 which is located to the east of lagoon 8 and that these areas will be graded with gentle slopes to enable ease of maintenance and a network of footpaths similar to those currently on lagoon 7.

The proposal for lagoon 6 is not to infill it with water but instead to profile the area to create different local environments to encourage bird and insect life on to the area and to form a new footpath to the north of it as well as creating other landscaping proposals and boundary treatments around lagoon 6.

It is proposed that the existing infrastructure used for creating and operating the site will be utilised where required for the new systems. This work will include removal of the dust suppression reservoir, wheel wash and palisade compound local to the east entrance along with all their accompanying service connections. These areas will be made good and grassed with the exception of the concrete slab for the palisade compound and wheel wash which will be left in place for potential future new uses.

Provision of new or improved pathways linking the two areas of the application site and linking into the current pathways which traverse the land are also proposed.

The application is also supported by a Planning Statement which includes the proposed Aftercare and Restoration Plan as an appendix and a Habitat Regulations Appraisal (HRA)

Since registration of the application, amendments have been made to the HRA initially submitted and a revised HRA has been subsequently submitted as part of this application.

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 2017 sets out

the selection criteria for screening whether a Schedule 2 development requires an EIA. On 10th January 2018 the Council issued a formal screening opinion to the applicant's agent. 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. 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 1B (The Spatial Strategy: Development Principles), 11 (Delivering the Green Network) and 12 (Green Belts) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies C3 (Protection of Open Space), C6 (Rights of Way), C7 (Core Paths and Other Routes), C8 (Musselburgh Lagoons), DC2 (Development in the Edinburgh Green Belt), NH1a (Internationally Protected Areas), NH1b (Sites of Special Scientific Interest), NH3 (Important Local Biodiversity Sites), T2 (General Transport Impact), DP1 (Landscape and Streetscape Character), DP2 (Design), DP12 (Biodiversity Assessment), DP13 (Biodiversity and Development Sites), and DP16 (Flooding) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

The Proposed East Lothian Local Development Plan was submitted to Scottish Ministers for Examination in 2017 and the Reporters' Examination Report was issued on 14 March 2018. The East Lothian Local Development Plan (ELLDP) was thereafter modified following the Examination. At their meeting on 29 May 2018, the Council approved the ELLDP as the Local Development Plan the Council intends to adopt. The ELLDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications.

Relevant ELLDP Policies and Proposals PROP MH16: Levenhall Links to Prestonpans: Area for Habitat Improvement, DC1 (Rural Diversification), DC6 (Development in Coastal Areas), DC7 (Development in the Edinburgh Green Belt), DC9 (Special Landscape Areas), DC10 (The Green Network), NH1 (Internationally Designated Sites RAMSAR), NH2 (Protection of Sites of Special Scientific Interest and Geological Conservation Review Sites), NH3 (Protection of Local Site and Areas), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species), NH11 (Flood Risk), DP1 (Landscape Character), DP2 (Design), OS1 (Protection of Open Space), W1 (Waste Management Safeguards), T2 (General Transport Impact) and T4 (Active Travel Routes and Core Paths as part of the Green Network Strategy) do not represent any significant alteration to the current relevant policies.

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

Scottish Planning Policy states that any development proposal likely to have a significant effect on an SPA, and which is not directly connected with or necessary to their conservation management must be subject to an "appropriate assessment" of the implications for the conservation objectives. Such development proposals may only be

approved where: (i) the competent authority has ascertained by means of an “appropriate assessment” that there will be no adverse effect on the integrity of the site; or (ii) where there are no alternative solutions, there are imperative reasons of overriding public interest, including those of a social or economic nature and compensatory measures are provided to ensure that the overall coherence of the Natural network is protected.

Also material to the determination of the application are the written representations received to it. No objections have been received to this application. One representation has been received from an individual. The writer supports the application and commends the proposals to develop the former ash lagoons into a premier wildlife site, to replace vital habitat lost here and elsewhere within the Firth of Forth Ramsar Site and to open opportunities for education and tourism in the area. The writer does however make suggestions relating to the detail of the proposals including that the area of wetland to be created in lagoon 8 should be as large as possible, that care be taken over the proposed height of the mound proposed between lagoon 7 and 8, that wet areas within the new wetland should be enlarged as much as possible and should have varying water depths to provide habitat for different species, that bird hides should be located in more optimal positions adjacent to the moat, that a fifth hide to be positioned on the west side of lagoon 8 should be provided and that future management of vegetation and access issues should be carefully considered.

Musselburgh and Inveresk Community Council have been consulted on the application but have not provided any comments on it.

Policy C8 relates to the whole of the application site and the wider Ash Lagoons area. It states that “The Musselburgh Lagoons will be retained primarily for recreational use. The Council supports the further development of and improvements to Musselburgh Racecourse and Old Golf Course, including the provision of new stables and starter hut and of facilities for users of the lagoons. Development of new or existing uses or facilities will be assessed against their likely impact on: the character and amenity of Musselburgh Conservation Area; natural heritage interests, in particular the Special Protection Area; Musselburgh Old Golf Course and its setting; public access; traffic and parking and residential amenity.”

The easternmost side of the application site (the area in and around lagoon 6) is defined by Policy DC2 of the adopted East Lothian Local Plan 2008 as being part of the Edinburgh Green Belt and is also covered by Policy C3 of the adopted East Lothian Local Plan which identifies this part of the site as being of recreational, leisure and amenity open space. Within East Lothian, the Green Belt surrounds Musselburgh and Wallyford and extends towards Prestonpans and Tranent. The adopted Local Plan states it plays an important role in protecting the landscape setting of Musselburgh and the western edges of Prestonpans and Tranent as well as the landscape setting of the eastern edge of Edinburgh.

Policy DC2 only allows for development in the Green Belt where it is necessary for agricultural, horticultural or forestry operations, for countryside recreation, or where by its scale and nature it will not harm the rural character of the area; and where it meets the requirements of Local Plan Policy DC1 Part 5; and in all cases, where it does not detract from the landscape setting of Edinburgh and its neighbouring towns, or lead to their coalescence.

The proposal the subject of this application is a scheme of restoration of the final two lagoons at Levenhall, to preserve and improve their biodiversity potential and to protect their environmental designations.

As the proposed development is to restore and improve the landscape of the lagoons and to facilitate the continuing existing recreational use of lagoons, it has a clear operational justification of need to be in this location and is consistent with Policies C3 and C8 of the adopted East Lothian Local Plan 2008.

By their nature the proposals would not harm the rural character of the area and would not detract from the landscape setting of Musselburgh or Prestonpans or lead to their coalescence. The proposals for lagoon 6 and the area around it do not conflict with Policy 12 of SESplan or with Policy DC2 of the adopted East Lothian Local Plan 2008.

The applicant's "Closure, Restoration and Aftercare Plan 2017" sets out in detail the applicant's proposals for the application site. The applicant states in the Plan that they consulted with Scottish Natural Heritage (SNH) and East Lothian Council to ensure that the biodiversity value of the site was fully considered with preparing the Plan. As the Plan developed, further input was sought from the Royal Society for the Protection of Birds (RSPB), and specialised biodiversity surveys were carried out. SEPA were consulted with and kept informed throughout this process. The applicant advises that the design proposals detailed in the Plan have been developed to deliver sustainable habitats that will have an exceptionally high biodiversity value whilst requiring minimum maintenance.

The proposals for Lagoon 8 involve trying to create an area similar to that which the birds had when the lagoon was in operation. The proposal is not to create a completely flooded lagoon (the applicant advises that completed lagoons at Levenhall are very porous and it would take constant pumping to maintain the water levels) but for avian security it is proposed that the roosting area be protected by a moat which is 4 metres wide around the area, and which will be 1 metre deep at its shallowest point. To provide wading areas it is proposed to form these out of ash with a layer of clay on the surface within the confines of the moated area. There will be a pumped supply for filling the moat and the wader areas fitted with weir/sluice drainage systems which will operate through gravity. In addition the proposal makes allowance for a sand martin bank in the south east corner of the moated area. Four bird hides are proposed to be positioned around the perimeter of lagoon 8, three on the south side of the lagoon and one on the east side. The bird hides proposed are designed to be similar to that of the existing bird hides constructed at lagoon 5. The floor area of the bird hides will be concrete, levelled for safe access/egress and use of wheelchair users. The walls will be constructed of precast concrete block or brick and painted in a camouflage colour to soften their profile of the embankments. Viewing places will be designed for wheelchair users to ensure the user will get close to the viewing slot. It is not proposed to construct roofs on the bird hides, minimising the risk of mis-use. Paths and ramps will be constructed to allow access to the hides. Footpaths and hides will be kept at a distance and profiled so that people using them will not be seen by any birds using the area. In addition, the nearest areas where the public has access will be delineated by post and wire fences, complete with hedge row and a steel 5 bar gate will be erected across the access road into the island area of lagoon 8. It is proposed that the existing mound of ash, which had in previous proposals been proposed to be used for the formation of a landform on the north side of the lagoon, instead be graded across the remainder of lagoon 8 and part of lagoon 7. These areas will be graded with gentle slopes to enable ease of maintenance and a network of footpaths, similar to those currently on lagoon 7.

The proposals for lagoon 6 are simpler in nature and are intended to create a large naturally developing area with the base of the main lagoon of lagoon 6 being profiled to create low areas through and covered with a thin clay/sub soil layer. These areas will be designed to puddle and create different local environments to encourage bird and

insect life on to the area. The landscaped area to the west of the lagoon will be graded and covered in growing medium (recycled from lagoon 7)/topsoil and left to self-seed. It is proposed that it will have a water supply and drainage system similar to Lagoon 8 left in place allowing for redevelopment in the future should it be considered desirable. A new footpath would be formed and post and wire fences would be erected.

The proposed restoration works and associated paths, boundary treatments and structures would be readily visible in public views from through the overall lagoons area and beyond. In the public views of it, when seen in relation to the previously restored areas of the wider lagoons area the proposals by virtue of their form, appearance, design and surface finishes would have a positive impact on the visual aesthetic of the land of the application site. Consequently, the proposals would not harm the landscape character and visual amenity of the area. On these considerations the proposals are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), DP1 and DP2 of the adopted East Lothain Local Plan 2008.

The westernmost side of the application site is within the Firth of Forth Special Protection Area (SPA), a complex of estuarine and coastal habitats in south east Scotland stretching east from Alloa to the Coasts of Fife and East Lothian. Beyond that SPA, further to the north, is the Forth Islands Special Protection Area and beyond that the Outer Firth of Forth and St Andrews Bay Complex proposed SPA (pSPA). It is also within the Firth of Forth Site of Special Scientific Interest (SSSI), which is important for a variety of geological and geomorphological features, coastal and terrestrial habitats, vascular plants, invertebrates, breeding, passage and wintering birds.

The Habitat Regulations Appraisal (HRA) submitted with the application assesses the potential impacts of the proposals on these environments and proposes measures to mitigate for the proposed development.

Scottish Natural Heritage (SNH), the Council's Principal Countryside Officer and the Royal Society for the Protection of Birds (RSPB) Scotland have all been involved at various stages with the proposal for lagoon restoration and are all generally supportive of the broad principles of landscape restoration proposed through this application.

SNH advise that restoration of lagoon 8 will lead to improvements in the overall condition of the SSSI and SPA and will also help to connect people with nature by creating a high quality amenity resource. Restoration of lagoon 6 will also bring important benefits to biodiversity and amenity. In relation to the HRA, SNH advise that subject to some changes and clarifications which they have detailed in their consultation response, the HRA can be used as a basis for the Council's own 'Appropriate Assessment'. SNH advises that they support the conclusions of the HRA, which depend upon the application of the mitigation described in Table 8-1 of the HRA. The implementation of these measures can be secured by conditions of a grant of planning permission. SNH further advise that they support the requirement for the applicant to produce a Construction Method Statement and Phasing Plan to control the construction process. This requirement can be secured by a condition of a grant of planning permission.

RSPB Scotland also welcome the proposals which they have had input to prior to the submission of the application. They do not object to the proposals and support the findings of the HRA. They make a number of observations on the details of the proposals including that it is important to ensure that, in order to minimise the impact of visitor disturbance to birds using lagoon 8, bunds and access paths should be designed and positioned in order to ensure that visitors are not visible to birds on the

lagoon, the sand martin bank should be fully enclosed by a predator-proof fence to exclude badgers and foxes, which are known to dig up Sand Martin nests, the construction and position of the form across the moat should ensure that access by mammalian predators is prevented, bird watching hides should be inconspicuous while maintaining the optimum height for viewing of the lagoon and wader areas and an additional hide should be positioned on the west bund of the lagoon to maximise viewing conditions.

The HRA has been amended in light of SNH's comments and the Council's Principal Countryside Officer has undertaken an Appropriate Assessment of the 'likely significant effects' of the proposals on the designated site on behalf of the Council. His conclusion is that the Council concurs with the summary of potential impacts and recommended mitigation measures set out in the amended HRA. It is considered that with the implementation of the recommended mitigation measures, the proposed development will not have a significant effect on of the Firth of Forth SPA, or other Natura site, either alone or in combination with other proposals.

The Council's Principal Countryside Officer otherwise comments that the Council's Countryside Services welcome the plans and commends Scottish Power Generation for their public consultation exercise and partnership approach to the restoration. Countryside Services support the broad principles of landscape restoration proposed but make a number of detailed comments on certain aspects of the proposals and recommends a number of conditions to be imposed in the event that planning permission be granted for the proposals.

The Council's Principal Countryside Officer advises that conditions should be imposed on a grant of planning permission to ensure that a Water Engineering Plan (to demonstrate how the water supply system, including pumps, pipes and automated water control, will operate for lagoon 8, boating pond, wader scrapes (lagoon 5) and lagoon 6) , a Landscape Management Plan (to define where trees and shrubs will be planted and where seed mixes will be sown and amongst other things to detail landscape treatment of the wash plant adjacent to lagoon 6), a Construction and Vehicle Management Plan, a Dust Suppression Plan and a Phasing Plan should be submitted prior to the commencement of development. He also recommends that detailed designs for the proposed sand martin bank, the design and positioning of bird hides, a detailed contour plan of lagoon 8 demonstrating the potential flooding depths of each area and specification, depth and formation techniques of the puddle clay liner to be used in both lagoons as well as the specification of any artificial liners and details of inert material to be used be submitted for the prior approval of the Planning Authority. The Principal Countryside Officer agrees with RSPB and the writer of the individual representation submitted to this application that a 5th bird hide, to be positioned on the west side of lagoon 8 should be provided and that the bund around lagoon 8 must be high enough and the adjacent paths set low enough to prevent people breaking the horizon/sky line and being visible to birds on lagoon 8. These matters can also be secured by conditions of a grant of planning permission. Elsewhere on the site the Principal Countryside Officer recommends that seating areas be provided along the sea wall perimeter of the site, fencing around both lagoons should be three wire with netting/mesh to prevent dogs and foxes accessing the lagoons.

In relation to new path provision and upgrades to existing paths throughout the site, the Principal Countryside Officer initially recommended that paths should be 3 metres wide, with a bound surface and a maximum gradient of 1:20. Following a meeting with the applicants and their agents to discuss this matter it has been agreed with the Principal Countryside Officer that it would be reasonable to allow paths throughout the

site to be a minimum of 2.5 metres in width rather than the 3 metres initially specified. The Principal Countryside Officer is satisfied that this would still allow reasonable access for pedestrians and cyclists throughout the site. The John Muir Way currently runs to the west and north of Lagoon 8. This route is also part of the National Cycle Network (route 76). The route currently has a mixed surface of tarmac and gravel in different sections. The Principal Countryside Officer advises that this route should be upgraded to a bound surface along its entire length to improve the condition of the path for shared use. This is not included within the proposals and although some recent discussion has taken place between the applicant and Council officials on this matter a solution for the surfacing of this path has not yet been reached and no consultation on this matter has been undertaken with Scottish Natural Heritage, who may have an interest in how such a proposal may affect the SSSI and SPA. It would therefore be prudent to impose a condition on a grant of planning permission to ensure that this path is hardsurfaced along its entire length as recommended by the Council's Principal Countryside Officer unless otherwise agreed in writing with the Planning Authority in consultation with Scottish Natural Heritage.

The Council's Landscape Project Officer advises that the proposed works, in time, should significantly benefit the overall Levenhall Links site in respect of the biodiversity, user interface and landscape character and its special qualities and features. He advises that he is satisfied with the general principles of the proposals from a landscape perspective and considers that the Council's Countryside Services should have a major feed into the detailed design of the proposals in respect of the final product to link and marry with the general principles and philosophy of the wider natural environment.

The Landscape Project Officer advises that it is important that specific controls are considered in respect of the level of disturbance to the existing wildlife and user interface during the development process. The Habitat Regulations Appraisal (HRA) submitted with the application addresses the main issues of potential impacts for natura sites and recommends mitigation measures and the Landscape Projects Officer advises that it would be beneficial for a suitably experienced and qualified environmentalist / clerk of works in relation to this type of construction activity to be retained on site to supervise the works in relation to adhering to the necessary mitigation measures to assure that there will be no significant impacts and therefore no significant effects from the works identified in this application. This can be controlled through a construction management condition imposed on a grant of planning permission.

In conclusion, subject to the aforementioned planning controls, Scottish Natural Heritage, the RSPB Scotland and the Council's Countryside Services and Landscape Project Officer are satisfied that the integrity of the SPA and SSSI would not be compromised and that the proposals would contribute positively to the landscape, biodiversity, recreation and amenity interests of the lagoons. . Thus, the proposals would be consistent with Policies 1B and 11 of the approved South East Scotland Strategic Development Plan (SESplan) and with Policies C7, NH1a, NH1b, NH3 and DP13 of the adopted East Lothian Local Plan 2008.

As stated previously in this report, the applicant's agent advises that the lagoons the subject of this application are the subject of a Pollution Prevention and Control (PPC) Permit, issued under the Pollution Prevention and Control (Scotland) Regulations 2012, for which SEPA is the responsible Scottish Government agency. The PPC permit requires the agreement of an Aftercare and Restoration Plan, to be implemented following the cessation of operations at the site. The Applicant's agent advises that the applicant has liaised closely with SEPA on the Aftercare and

Restoration Plan and has received support, in principle, for the proposed development.

SEPA have been consulted on this application and have advised they have no objections to this planning application and no issues with the restoration proposals with regard to the water environment, flood risk and sustainable waste management. They have provided regulatory advice for the applicant which they have forwarded to the applicant's agent for his information.

The Council's Manager for Structures, Flooding and Street Lighting raises no objections to the proposals on the ground of flood risk. He recommends that a condition be imposed if planning permission is to be granted to ensure that a Water and Drainage Assessment covering all surface water and drainage systems proposed for the application site be submitted prior to the commencement of works. This matter can be controlled by the imposition of a condition on a grant of planning permission in which case the proposal would be consistent with Policy DP16 of the adopted East Lothian Local Plan 2008.

Scottish Water have been consulted on the application but have not provided any comments on it.

The Council's Archaeology/Heritage Officer advises that there would be no direct or indirect impacts on archaeology interests as a result of the proposals. He therefore raises no objections to the proposals.

The Council's Road Services raise no objection to the proposals being satisfied that they would not have a detrimental impact on road or pedestrian safety.

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

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

The Council's Environmental Protection Service advises that they have no comment to make on the proposals. They are satisfied that any required environmental monitoring is currently and will continue to be carried out as part of the surrender process for the existing PPC permit at the site.

The Coal Authority have been consulted on the application due to the westernmost side of the application site being in an area defined by The Coal Authority as being a Coal Mining Development High Risk Area. The easternmost side of the application site is an area defined by The Coal Authority as being a Coal Mining Development Low Risk Area. The Coal Authority advise that as the proposal is for restoration works they are content that the nature of these works is such that they do not consider a Coal Mining Risk Assessment would be proportionate or necessary in this case. They therefore have no objection to the proposals. The Coal Authority have, in the interests of public safety, provided an Informative Note which has been forwarded to the applicant's agent for their information.

RECOMMENDATION

That planning permission be granted subject to the undernoted conditions:

- 1 Details of the phasing of the restoration of the site, including the landscaping of it, shall be submitted to and approved by the Planning Authority. The restoration and landscaping of the site shall thereafter be carried out in accordance with the details so approved unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the timely phasing of the restoration in the interests of the amenity of the area.

- 2 Prior to the commencement of site restoration, a Water and Drainage Assessment covering operation details for all surface water and drainage systems, including pumps, pipes and automated water control for lagoon 8, the boating pond, wader scrapes (lagoon 5) and lagoon 6 shall be submitted to and approved by the Planning Authority. The submitted detail shall include a timetable for the delivery of all identified mitigation measures.

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

Reason:

To ensure that the development is not at risk from flooding, there is no increase in flood risk elsewhere and appropriate long-term maintenance arrangements are in place.

- 3 Prior to the commencement of site restoration a Construction Management Plan, including a Vehicle Management Plan and Dust Suppression Plan, shall be submitted to and approved an advance in writing by the Planning Authority following consultation with SNH.

The Construction Management Plan shall include the following mitigation measures:

- Work shall be planned and scheduled to limit damage to the Firth of Forth SPA and its qualifying features and to the Firth of Forth SSSI and its protected species, habitats and geodiversity features;
- The timing of works shall avoid the breeding season where possible;
- The timing of works shall avoid dawn and dusk where possible as these are usually the times of day when birds are most active, and any reduction in potential disturbance is welcomed;
- All site staff shall be provided with information regarding the sites' ecological sensitivities as part of the Health and Safety Induction;
- All site staff shall be aware of the need for careful working practices to avoid environmental damage;
- An Ecological Clerk of Works (ECoW) shall be employed during construction to advise on the timing and/or duration of operations, monitor bird activity and undertake nest checks, bird counts, and offer advice to the general public, and the contractors regarding notable species, sensitive areas and legal obligations;

It shall also include the following details:

- Mitigation measures to control noise, dust, construction traffic (including routes to/from site and delivery times);
- Hours of construction work;
- Routes for construction traffic;
- Wheel washing facilities; and
- Measures to address public access and active travel during construction, particularly relating to the Core Path network around the site, and other paths through the site and detailing any alternate temporary provision measures.

Thereafter all construction works associated with the site restoration hereby approved shall accord with the approved Construction Management Plan, unless otherwise approved in writing by the Planning Authority following consultation with SNH.

Reason:

To protect the Firth of Forth Special Protection Area and Site of Scientific Interest from significant

disturbance arising from the site restoration works hereby approved, and in the interests of the amenity of the area.

- 4 No restoration works shall take place until there has been submitted to and approved in writing by the Planning Authority a Landscape Management Plan covering all of the application site and shall include details of:

-The height and slopes of any mounding on or recontouring of, the site;

-Tree and shrub sizes, seed mixes, species, habitat, siting, planting distances and a programme of planting and aftercare;

-Details of soil depths within lagoons 6 and 8;

-Landscape treatment of the current wash plant adjacent to lagoon 6;

-The detailed design of the sand martin bank to be formed in lagoon 8;

-A ditch to be re-established along the north and western sides of lagoon 8

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. These details shall include a description of woodland management to be carried out in woodland on the south side of lagoon 6.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the phasing plan approved in respect of Condition 1 above.

Any trees or plants which within a period of five years from the completed restoration of the site, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 5 Site restoration shall be carried out in strict accordance with the mitigation measures set out in Table 8-1 of the Habitat Regulations Appraisal docketed to this planning permission.

Reason:

In the interests of ecology.

- 6 Notwithstanding that which is detailed in the docketed drawings, a total of 5 bird hides shall be provided around lagoon 8. Details of the bird hides, including their positioning, finishing and form shall be submitted to and approved by the Planning Authority. The submitted details shall also include a timetable for their provision. Provision of the bird hides shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of the amenity of the area.

- 7 Prior to their erection on the site, details of the fencing, gates and other means of enclosure to be erected on the site shall be submitted to and approved in advance by the Planning Authority. Unless otherwise approved by the Planning Authority fencing around the lagoons shall be three wire with netting/mesh to prevent dogs and foxes accessing the lagoons. The submitted details shall also include a timetable for their provision.

Development shall thereafter be carried out in full accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interest of the amenity of the area.

- 8 Prior to their erection on the site, details of seating areas along the sea wall perimeter of the site shall be submitted to and approved in advance by the Planning Authority. The submitted details shall also include a timetable for their provision.

The seating shall thereafter be carried out in full accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interest of the amenity of the area.

- 9 Unless otherwise agreed in writing by the Planning Authority, the existing shared use path to the west and north of Lagoon 8 shall be hardsurfaced over its entire length and to a width of 2.5 metres. Prior to the commencement of development details of the hardsurfacing of the shared use path shall be submitted to and approved in writing by the Planning Authority. following consultation with Scottish Natural Heritage Those details shall include a timescale for the hard surfacing of the shared used path. The hardsurfacing of the shared use path shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of the amenity of the area and recreational access.

- 10 Unless otherwise agreed in writing by the Planning Authority, all of the new and altered paths shall have a bound surface and a width of 2.5 metres.

Reason:

In the interests of the amenity of the area and recreational access.

- 11 Prior to the commencement of site restoration details of the depths of water and material specification for lagoons 6 and 8 shall be submitted to and approved by the Planning Authority. The details shall include the specification of any artificail liners and details of any inert material to be used. It shall also show the use of puddle clay for the lining of the lagoons. Site restoration shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interest of the ecological value of the site.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)