

**PLANNING COMMITTEE**

**26 MARCH 2019**

**PUBLIC DOCUMENT PACK**





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

**TUESDAY 5 FEBRUARY 2019  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

**1**

---

**Committee Members Present:**

Councillor N Hampshire (Convener)  
Councillor J Findlay  
Councillor N Gilbert  
Councillor W Innes  
Councillor S Kempson  
Councillor C McGinn  
Councillor K McLeod  
Councillor J McMillan  
Councillor F O'Donnell

**Other Councillors Present:**

Councillor J Henderson

**Council Officials Present:**

Mr K Dingwall, Team Manager – Planning Delivery  
Mr K Graham, Solicitor  
Ms E Taylor, Planner  
Ms M Haddow, Transportation Planning Officer  
Ms P Bristow, Communications Adviser  
Mr J Allan, Planning Technician

**Clerk:**

Ms A Smith

**Visitors Present/Addressing the Committee:**

Item 2 – Ms R Gee, Mr R Bowman

**Apologies:**

Councillor L Bruce  
Councillor B Small  
Councillor J Williamson

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 15 JANUARY 2019**

The minutes of the meeting of the Planning Committee of 15 January 2019 were approved.

**2. PLANNING APPLICATION NO. 18/00677/PM: ERECTION OF A PETROL FILLING STATION WITH ANCILLARY RETAIL USE (CLASS 1), 1 DRIVE-THRU COFFEE SHOP (CLASS 3), 2 DRIVE-THRU RESTAURANTS (FAST FOOD) (CLASS 3), ASSOCIATED CAR PARKING, LANDSCAPING AND INFRASTRUCTURE WORKS AT LAND TO NORTH OF A1 GLADSMUIR JUNCTION, TRANENT**

A report was submitted in relation to Planning Application No. 18/00677/PM. Emma Taylor, Planner, presented the report, summarising the key points. She informed Members that the applicant had asked her to clarify that Euro Garages could not confirm at this stage which brands would be occupying the site so contrary to their Planning Statement there was not a structured partnership with McDonalds. The report recommendation was to grant consent.

Ms Taylor responded to questions. In relation to concerns about refuse/waste management she advised that Waste Services were satisfied with the proposed arrangements and had not objected to the application. Regarding the possibility of increasing the number of cycle parking bays she indicated this would be up to the applicant. With regard to bus services/stops, the nearest bus stop was on the A199 about 500m and there was a footpath to the application site. Road Services were satisfied that the site could be accessed safely. Regarding construction traffic and potential use of the B6363 to the north, she said that Road Services had not advised that this road should not be used, but a condition to control construction traffic routes could be added if the Committee so desired.

In relation to whether there would be a separate parking area for HGVs Ms Taylor advised that this had been raised with the applicant but it was not their intention to provide separate parking on the site for HGVs. She added that it was not a requirement to provide this. She clarified that the petrol filling station (PFS) would be for use by HGVs as well as other vehicles. Regarding a query about whether there was a policy to recycle existing buildings, she indicated that there was not a requirement for this in the Local Development Plan. She confirmed that the new buildings would be lower in height than the existing building.

Rachel Gee of Clarendon Planning and Development Ltd, agent for the applicant, informed Members that this was an ideal location for this proposal. She outlined the facilities that would be provided adding that there were no modern facilities on this stretch of the A1. The applicant was aware that the site formed part of the area for the Blindwells development and that road widening of the B6363 may be required and had agreed to safeguard that portion of road that may need widened. She referred to the public consultation stating that the local community supported the application, valuing the employment opportunities that would be generated. This development would be complementary to the Blindwells development. There were no negative issues and she hoped Members would support the application.

Ms Gee and Rob Bowman, representing Euro Garages, the applicant, responded to a series of questions. In relation to dealing with litter, Mr Bowman outlined Euro Garage's litter picking strategy. He confirmed, with regard to additional cycle parking bays, that there was no objection to providing more of these if needed. He confirmed that inserting an additional condition to ensure that construction traffic came to the site from the A1 was acceptable. He clarified that HGVs would be encouraged but alluded to related security issues, giving details of requirements instructed by Police Scotland if specific parking for HGVs was provided.

Responding to questions about promoting tourism in the county Mr Bowman said this could be looked at; information boards/leaflets could perhaps be provided in the PFS. In respect of positioning of large signage, Ms Gee confirmed that there would be no remote signage at

Macmerry; signage would be mainly limited to on the site. Mr Bowman added that the signage for all the various franchises would be on a single totem on the A1 but contained within the site. There may be a secondary sign at the entrance but this was yet to be clarified. Responding to further points regarding HGVs parking at the PFS/using the other facilities, Mr Bowman referred to the site plan, highlighting the queueing space; he did not anticipate any issues but stated if there were any they would be dealt with.

Keith Dingwall, Team Manager for Planning Delivery, clarified that the Council would have control over signage, adding that the applicant's intention was the correct approach.

Responding to other issues raised Mr Dingwall suggested that if Members were minded to grant consent that the following conditions could be added to the recommended conditions:

- Condition 10 (*safeguarding the amenity of the area*) – Prior to the commencement of development, details of proposals for waste management shall be submitted to and approved in writing by the Planning Authority. The details shall include a timetable for implementation. The agreed waste management proposals shall thereafter be carried out prior to the first opening of any of the components of the development hereby approved unless otherwise agreed in writing.
- Condition 11 (*road safety*) – No construction vehicles shall access the site by way of the B6363 to the north of the site.
- Condition 12 (*encouraging sustainable modes of transport*) – Notwithstanding that shown on the site plan docketed to this planning permission, an additional 14 cycle parking spaces shall be provided within the application site. Details of the additional cycle parking spaces, including a timetable for their installation, shall be submitted to and approved by the Planning Authority prior to the commencement of development. The cycle parking shall thereafter be installed in accordance with the details so approved.
- Condition 13 (*promoting tourism*) – Prior to the opening of any of the components of the development hereby approved, East Lothian tourist information shall be provided within the application site in accordance with details to be submitted to and approved in advance by the Planning Authority.

Local Member Councillor McGinn opened the debate. He welcomed the application; it would bring employment to the area. There were concerns in the community about litter issues but having heard from the applicant he was reassured. He would be supporting the application.

Local Member Councillor McLeod agreed that business investment coming in to the county was welcome. This was an ideal site. He would be supporting the report recommendation.

Councillor Kempson agreed with most of her colleagues' comments but had issues about the reluctance of the applicant to provide specific parking for HGVs. She would however be supporting the application.

Councillor McMillan also welcomed the business investment to East Lothian. He agreed that there was an issue in relation to HGV parking. He would particularly welcome any partnership working as regards tourism promotion. He would be supporting the application.

The Convener supported colleagues' comments; this was an exciting proposal in an excellent location. He would be supporting the report recommendation.

He moved to the vote on the report recommendation (to grant consent) subject to inclusion of the additional conditions as set out by Mr Dingwall:

For: 9

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:

(i) Safeguard the land outlined in purple on the drawing, entitled 'Proposed Site Layout', reference 170223-PL-03K, for future road widening/provision of an Active Transport Corridor (associated with the development of Blindwells Expansion Area) for acquisition, at a cost based on a District Valuer valuation assessed on the land valued as petrol filling station use, and implementation by East Lothian Council. The land shall be safeguarded for a period of 10 years from the date of initiation of development of this planning permission or for an alternative time period that East Lothian Council has agreed with the landowner. On Expiration of the agreed time period, and if the Planning Authority has not demonstrated that the safeguarded land is required to facilitate the development of the Greater Blindwells development the land will revert back to the landowner for their unrestricted future use. For clarity, subject to the gaining the required permissions from the planning authority, signage associated with the adjacent land uses will be permitted on the Safeguarded land until such time the land is acquired by East Lothian Council for the future the required road widening / provision of an Active Transport Corridor works.

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 ability to secure the transfer of the safeguarded land, in the event that it is required for the future road widening/provision of an Active Transport Corridor, the proposed development could prejudice the development of the Greater Blindwells new settlement, contrary to Proposal BW2 of the adopted East Lothian Local Development Plan 2018.

1 Prior to the commencement of development, a phasing plan shall be submitted to and approved by the Planning Authority. The phasing plan shall accord with the following requirements:

- (i) The roads and footpaths shall be completed and available for use prior to any use being made of any part of the Road Services Facility;
- (ii) The petrol filling station together with the PFS retail facility and rest facilities shall be complete and made available for use prior to the opening of any of the 3 drive through units;
- (iii) Prior to the opening of each of the buildings of the development the associated bike parking, picnic tables and out door seating areas will installed and be made available for use by the public.

The development will thereafter be carried out in accordance with the approved phasing plan unless otherwise agreed in writing by the Planning Authority.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site.

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

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

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;

b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and

c. the ridge height of the proposed buildings; shown in relation to the finished ground and floor levels on the site.

Reason:

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

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

Reason:

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

- 4 Bike parking sufficient for 4 bikes shall be provided adjacent to each of the 4 buildings of the development prior to each of those buildings becoming operational and open for business. Thereafter the bike parking shall remain available for use unless otherwise agreed in writing by the Planning Authority.

Reason:

In the interests of encouraging sustainable methods of travel to the development.

- 5 All planting, seeding or turfing comprised in the approved details of landscaping [on the drawings titled 'Landscape Layout (1 of 4)' with drawing number 01 rev F 'Landscape Layout (2 of 4)' with drawing number 02 rev F 'Landscape Layout (3 of 4)' with drawing number 03 rev F 'Landscape Layout (4 of 4)' with drawing number 04 rev F and 'Landscape Masterplan' with drawing number MA rev F], shall be carried out in the first planting and seeding season following the occupation or completion of the development 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:

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

- 6 Prior to the commencement of development (i) intrusive site investigations shall be undertaken on the site to establish any coal mining legacy issues on the site, (ii) A report of findings arising from the intrusive site investigations shall thereafter be submitted together with a scheme of remedial works for the approval of the Planning Authority in conjunction with The Coal Authority and (iii) those remedial works shall be implemented prior to the commencement of development of the site unless, otherwise agreed in writing by the Planning Authority.

Reason:

In the interests of the safe development of the site.

- 7 Prior to the commencement of development the details of (i) any barriers to be erected along the trunk road boundary, (ii) any lighting to be erected within the application site and (iii) any landscaping treatments along the trunk road boundary shall be submitted to and approved by the Planning Authority in conjunction with Transport Scotland. Thereafter the barriers, lighting and landscaping shall accord with the details so approved unless otherwise agreed in writing.

Reason:

To ensure that there will be no distraction or dazzle to drivers on the trunk road and in the interests of road safety.

- 8 There shall be no drainage connection to the trunk road drainage system.

Reason:

To ensure the efficiency of the existing trunk road drainage network is not affected.

- 9 Prior to the installation of the foundations for the tank farm hereby approved, an assessment of the condition of the sub-soil shall be made in order to determine any special precautionary work which might be necessary to reduce the possibility of structural failure of the tank farm. The assessment shall review the ground conditions and the foundation design and shall consider whether any precautionary works are necessary to ensure that there is no risk to the water environment. The assessment shall include a timetable for the implementation of any such precautionary works. Details of the assessment shall be submitted to and approved by the Planning Authority following consultation with the Scottish Environment Protection Agency. Any such precautionary works shall thereafter be implemented in accordance with the timetable so approved.

Reason:

To ensure that there is no risk to the water environment from the proposed development.

- 10 Prior to the commencement of development, details of proposals for waste management shall be submitted to and approved in writing by the Planning Authority. The details shall include a timetable for implementation. The agreed waste management proposals shall thereafter be carried out prior to the first opening of any of the components of the development hereby approved unless otherwise agreed in writing.

Reason;

In the interests of safeguarding the amenity of the area.

- 11 No construction vehicles shall access the site by way of the B6363 to the north of the site.

Reason:

In the interests of road safety.

- 12 Notwithstanding that shown on the site plan docketed to this planning permission, an additional 14 cycle parking spaces shall be provided within the application site. Details of the additional cycle parking spaces, including a timetable for their installation, shall be submitted to and approved by the Planning Authority prior to the commencement of development.

The cycle parking shall thereafter be installed in accordance with the details so approved.

Reason:

In the interests of encouraging sustainable modes of transport.

- 13 Prior to the opening of any of the components of the development hereby approved, East Lothian tourist information shall be provided within the application site in accordance with details to be submitted to and approved in advance by the Planning Authority.

Reason:

To promote tourism on offer in East Lothian in the interests of amenity.

*Sederunt: Councillor McLeod left the Chamber*

**3. PLANNING APPLICATION NO. 18/01151/PM: VARIATION OF CONDITION 1(E) OF PLANNING PERMISSION IN PRINCIPLE 09/00574/OUT - TO CHANGE THE A1087 PUBLIC ROAD VISIBILITY SPLAYS AT THE NEW ACCESS JUNCTION AT DUNBAR GOLF CLUB, EAST LINKS ROAD, DUNBAR**

A report was submitted in relation to Planning Application No. 18/01151/PM. Ms Taylor presented the report summarising the key points. The report recommendation was to grant consent.

Local Member Councillor Kempson stated that the proposal seemed reasonable and she would therefore be supporting the application.

The Convener, a Local Member, agreed, adding that progress would be welcomed.

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



For: 8  
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 a financial contribution to the Council of £473044 for education contributions - £149,480 towards the provision of additional capacity at the Lochend Campus of Dunbar Primary School, £130,449 towards John Muir Campus of Dunbar Primary School; and £193,115 towards additional capacity at Dunbar Grammar School;
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 Dunbar Primary School and Dunbar Grammar School, contrary to Proposal ED6 of the adopted East Lothian Local Development Plan 2018.

- 1 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include: details of the siting, design and external appearance of the golf clubhouse, golf academy, greenkeepers shed, 67 residential units and hotel; the means of access to them; the means of any enclosure of the boundaries of the site and any subdivision of it; and the landscaping of the site including the 9 hole golf course, driving range and short game practice facilities. Those details shall generally accord with the drawings docketed to this planning permission in principle, with the principles of the Council's Urban Design Standards for New Housing Areas and the Scottish Government Policy Designing Streets, and otherwise those details shall accord with the following principles of development for the site:
  - a) a play area shall be provided within the main housing area. Details of the play area, including the equipment to be provided within it, shall be submitted to and approved in advance and the play area shall be installed in accordance with the details so approved;
  - b) Houses shall be no higher than two storeys in height and may include accommodation in the roof space; any flatted building(s) shall be no higher than three storeys in height and may include accommodation in the roofspace;
  - c) The golf academy/clubhouse building(s) shall be no more than two storeys in height and may include accommodation in the roof space;
  - d) existing trees and hedgerows on the site and its boundaries shall be retained and enhanced unless otherwise agreed in writing with the Planning Authority;
  - e) for any new access to the A1087 public road visibility splays of 4.5 metres by 120 metres shall be provided and maintained at the new access junction
  - f) parking shall be to the required standards of East Lothian Council's Parking Standards;
  - g) shared cycle/ footway provision shall be made along the A1087 road from the site access northwards to the layby on the east side of Queens Road;
  - h) Bus stops shall be provided in close proximity to the new access junction onto the A1087 road.

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment.

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

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

b. The position within the application site of all elements of the proposed development and position of adjoining land and buildings;

c. Finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and

d. The ridge height of the proposed buildings shown in relation to the finished ground and floor levels on the site.

Reason:

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

- 3 No work shall take place until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work on the site of the proposed development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 4 No work shall take place on site until the scheduled ancient monument 'Samoya, 100m NNE of' has been protected by a fence, to be approved in writing by the Planning Authority, erected around the scheduled ancient monument at a distance as may be agreed in writing by the Planning Authority. Within the area so fenced off the existing ground -level shall neither be raised nor lowered and no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no fires shall be lit thereon without the prior written approval of the Planning Authority.

Reason:

To ensure the retention and maintenance of the scheduled ancient monument.

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

Reason

In the interests of road safety.

- 6 A Green Travel Plan to minimise private car trips and to encourage use of alternative modes of transport shall be submitted to and approved by the Planning Authority prior to the commencement of use of any component part of the scheme of development hereby approved. The Green Travel Plan shall include an assessment of whether or not new bus stops should be provided. Additionally the Green Travel Plan shall include details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan. The approved Green Travel Plan shall be implemented prior to any component part of the scheme of development hereby approved being brought into use.

Reason:

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

- 7 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work. The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development.

Reason:

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

- 8 A method statement for the routing and management of construction traffic shall be submitted to and approved by the Planning Authority prior to the commencement of development. The

recommendations of the method statement shall be implemented prior to the commencement of development.

Reason:

To minimise the impact of construction traffic in the interests of road safety and the amenity of the area

- 9 Prior to the commencement of development full details of the finalised sustainable urban drainage scheme (SUDS) for the application site shall be submitted to and approved in writing by the Planning Authority following consultation with the Scottish Water. The integrated sustainable urban drainage scheme (SUDS) for the application site shall thereafter be fully implemented in accordance with the details so approved.

Reason:

To ensure the provision of a satisfactory sustainable urban drainage scheme for the application site.

- 10 Development shall not commence on site until full details of the foul drainage system have been submitted to and approved in advance by the Planning Authority in consultation with the Scottish Environment Protection Agency and Scottish Water.

Reason:

To ensure that the site is adequately serviced and to protect the quality of the local watercourse.

- 11 No use shall be made of the 9 hole golf course hereby approved unless and until any mitigation measures in respect of the A1087 public road, as required of a risk assessment to be submitted to and approved in advance by the Planning Authority, have been implemented.

Reason:

In the interests of road safety.

- 12 Where access is to be taken from the A1087 road by way of a new priority junction this will be subject to the stopping up of the existing access from the Deer Park part of the site onto the A1087 and no part of the development to be accessed from such new junction shall be occupied or brought into use until such time as that existing access is stopped up.

Reason:

In the interests of road safety.

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

2020/21 - 10 units  
2021/22 - 22 units  
2022/23 - 35 units

If less than the specified number of residential units are completed in any one year then those shall be completed instead at Year 3 (2022/23) 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.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 26 March 2019  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

**2**

---

Application No. **18/00485/PPM**

Proposal Planning permission in principle for proposed Mixed Use Development comprising residential development, education, business, industry, storage and distribution, innovation hub (including class 2,3,4,5 and 6), employment uses, community facilities, residential neighbourhood centre (including class 1,2,3 and 10), playing fields, changing facilities, public park(s) and associated works

Location **Land At Old Craighall Village  
Musselburgh  
East Lothian**

Applicant Persimmon Homes East Scotland

Per HolderPlanning

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

As the application site is over 2 hectares in area and also the proposal is for more than 49 residential units, the application is a major development in terms of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Under the Council's Scheme of Delegation major development applications must be determined by the Planning Committee.

The officer recommendation is to grant planning permission in principle, subject to a Section 75 agreement for developer contributions required as an outcome of the development, to planning conditions to mitigate the impacts of the development and a direction in respect of the time period for submission of matters specified in conditions.

Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, major development applications must be preceded by a Proposal of Application Notice (PAN) at least 12 weeks beforehand, and by pre-application community consultation before an application for planning permission or

planning permission in principle is submitted to the Council.

A PAN (Ref: 17/00007/PAN) was submitted on 18 April 2017 and the application was submitted on 11 May 2018, complying with the minimum 12 week period between PAN and application. A public event was held at Brunton Hall, Musselburgh on 30 May 2017 and other meetings were held with Musselburgh Community Council and Old Craighall Tenants and Residents Association and a pre-application consultation report is submitted with this application, all in accordance with statutory requirements. The report states that 17 people attended the pre-application community consultation event. Event attendees and the Community Council and Tenants and Residents Association raised a number of issues regarding the proposals. The development for which planning permission in principle is now sought is of the same character as that presented through the community consultation event.

The application site is an area of some 116.5 hectares of land at Craighall to the south of Musselburgh, allocated by Proposal MH1 of the adopted East Lothian Local Development Plan 2018 (ELLDP2018) for mixed use development. Part of the site is also subject to application 15/00337/PM for planning permission for 370 houses, 103 flats and for associated works. A report on that application follows on the Committee agenda.

The MH1 allocation is for a mixed use development including 1,500 homes, around 41 ha of employment land, a new local centre, a new primary school and community uses as well as infrastructure and associated works. It is also subject to a Development Brief which forms part of the Council's approved Supplementary Planning Guidance Development Briefs as required by the ELLDP 2018. The Development Brief defines areas within the site.

Within the Development Brief, 21 hectares of land to the south of the A1 at Old Craighall (Area 1) is proposed for mixed use, predominantly housing development with a primary school and local centre, accessed from the local road network.

Area 2 comprises 22 hectares of land to the east of Queen Margaret University and north of the A1 for housing, with access from the local road network.

Some 55 hectares of land to the east of Millerhill Marshalling Yards between the freight rail loop and south of the A1 (Area 3) is for mixed use development including residential and some 20 hectares of employment land, with access from the A1 via a modified junction with an underpass of the A1 at Queen Margaret Drive.

Approximately 21 hectares of land to the north west of Queen Margaret University (Area 4) is for economic uses that support the key sectors of learning, life sciences and food and drink.

Some 3 hectares of land to the southeast of Musselburgh station (Area 5) is for mixed use development, potentially residential and employment uses.

In addition, approximately 1.5ha of land to the north west of Queen Margaret University, south of Musselburgh Station, is safeguarded as part of this proposal for any future improvement of Musselburgh rail station, including to allow for greater accessibility including for bus services.

The land is currently fallow agricultural land (mainly class 1 with some class 2 and 3.1), located around part of the southern edge of Musselburgh. It is bounded to the northwest by land at Newcraighall (within City of Edinburgh Council and subject to residential development), with the northern boundary formed by the East Coast Main Line with

houses at Stoneybank, Musselburgh beyond to the north and northeast. The southeastern boundary lies along the B6415 Monktonhall-Old Craighall road, with part of Musselburgh Golf Course and Old Craighall services and Old Craighall village beyond. The south boundary is part of the Millerhill rail freight loop and the western boundary lies alongside the Millerhill Marshalling yards with land in Midlothian beyond forming part of the Shawfair development. The A1 trunk road and the rail freight loop pass through the site.

Part of the application site (Area 2 and a small part of Area 1) is within the inventory boundary of the Battle of Pinkie, a battlefield included within Historic Environment Scotland's Inventory of Historic Battlefields.

The Firth of Forth Special Protection Area is located approximately 1km to the north of the application site.

Planning permission in principle is sought for a proposed mixed use development comprising residential development, education, business, industry, storage and distribution, innovation hub (including class 2,3,4,5 and 6), employment uses, community facilities, residential neighbourhood centre (including class 1,2,3 and 10 uses), playing fields, changing facilities, public park(s) and associated works,, those including formation of vehicle accesses, internal roads, landscaping, a Sustainable Urban Drainage System (SUDS) and open space.

The application is accompanied by masterplan documents which show how, in principle, the access and infrastructure to support that mixed use development would be set out, with two vehicle accesses from the B6415 along the north part of the southeastern boundary, two more at the southern part at Old Craighall village and modifications to the existing junction serving Queen Margaret University to access the land in the rail freight loop and the land northwest of the existing university campus. Internal road networks would be formed off those accesses to provide roads and streets through the development, to service residential, employment and community use development.

The masterplan documents also indicate how open space would be provided throughout the development. A primary school, three sports pitches with changing facilities and a local centre would form part of the development of the part of the site around Old Craighall Village and it is indicatively shown how a new road network around the existing village would take traffic away from the existing route of the B6145. SUDS infrastructure would be formed throughout the site

Pedestrian and cycle routes are indicated around and through the site, including part of the implementation of the East Lothian Segregated Active Travel Corridor as it would pass through the northern part of the site and to link the areas of the site together. These routes would be formed through the existing road and rail underpasses and rail overbridge to provide connectivity between the areas of the site and with Musselburgh to the north. Pedestrian and cycle links would also be provided alongside the B6145. Structural tree planting is proposed along parts of the boundaries with A1 and the railway lines.

The application is supported by, amongst other documents, an Environmental Statement, Pre-application Consultation Report, a Planning Statement, a Design and Access Statement, a Transport Assessment, a Flood Risk Assessment and a Tree Survey.

In March 2017 the Council issued a Scoping Opinion under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 as to what

required to be considered for an Environmental Statement for the proposals. An Environmental Statement has been submitted with the planning application. It contains chapters on landscape and visual impact, traffic and transportation, air quality, ecology, noise and vibration, cultural heritage, ground conditions, flood risk and drainage. Under the transitional arrangements of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, the application requires to be determined in terms of the 2011 Regulations as the Scoping Opinion was issued prior to the 2017 Regulations coming into effect on 16 May 2017.

The Scottish Government acknowledged receipt of copies of the Environmental Statement as a statutory recipient of it but makes no comment on it.

Since the registration of the application revised masterplan documents, a revised Design and Access Statement and additional Flood Risk Assessment documents have been submitted.

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 Development Plan 2018.

Policies 1B (The Spatial Strategy: Development Principles), 5 (Housing Land) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) are relevant to the determination of the application.

Policies RCA1 (Residential Character and Amenity), EMP1 (Business and Employment Locations), DP1 (Landscape Character), DP2 (Design), DP3 (Housing Density), DP4 (Major Development Sites), DP8 (Design Standards for New Housing Areas), DP9 (Development Briefs), DC10 (Green Network, NH1 (Protection of Internationally Designated Sites), NH5 (Biodiversity and Geodiversity Interests), NH8 (Trees and Development), NH10 (Sustainable Urban Drainage Systems), NH11 (Flood Risk), NH12 (Air Quality), NH13 (Noise), CH4 (Scheduled Monuments and Archaeological Sites), CH5 (Battlefields), DEL1 (Infrastructure and Facilities Provision), HOU1 (Established Housing Land), HOU2 (Maintaining an Adequate 5 year Effective Housing Land Supply), HOU3 (Affordable Housing Quota), OS3 (Minimum Open Space Standard for New General Needs Housing Development), OS4 (Play Space Provision in new General Needs Housing Development), OS5 (Allotment Provision), T1 (Development Location and Accessibility), T2 (General Transport Impact), T4 (Active Travel Routes and Core Paths as Part of the Green Network Strategy), T8 (Bus Network Improvements), Policy T31 (Electric Car and Bus Charging Points, T32 (Transport Infrastructure Delivery Fund), DCN2 (Provision for Broadband Connectivity in New Development), SEH2 (Low and Zero Carbon Generating Technologies) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Proposals MH1 (Land at Craighall, Musselburgh), ED1 (Musselburgh Education Cluster), CF1 (Provision of New Sports Pitches and Changing Accommodation), T3 (Segregated Active Travel Corridor), T10 Platform Lengthening), T11 (Safeguard Land for Improvements to Musselburgh Station), T15 (Old Craighall A1(T) Junction Improvements), T16 (A1 Junction Improvements at Queen Margaret Drive Interchange), T17 (A1(T) Interchange Improvements), and T22 (Reopen Link to Vehicle Access at Queen Margaret Drive/Whitehill Farm Road) of the adopted East Lothian Development Plan 2018 are also material to the determination of the application.



The Council's approved Development Briefs Supplementary Planning Guidance supplement policy in the ELLDP 2018 and can be a material consideration in the determination of planning applications. They are a set of guiding principles, and indicative design, to be followed where possible. Policy DP9 of the ELLDP 2018 requires that development conform with the relevant brief.

The Development Brief for the MH1 allocation refers to the areas of the site and proposed forms of development within these as set out above. It also includes design guidance for access, internal connections, landscaping and layout and design.

The "Design Standards for New Housing Areas" Supplementary Planning Guidance was approved by the Council on 10 March 2008. A revised version was approved for consultation by the Council on 27 October 2018 and for further consultation on 26 February 2019. This guidance requires that a more flexible approach be taken in road layout and design for proposed housing developments and sets core design requirements for the creation of new urban structures that will support Home Zone type development as well as establishing design requirements for the layout of and space between buildings. Developers must provide adequate information to the satisfaction of the Council to demonstrate the merits of their design.

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

This is reflected in paragraph 25 of SPP in which it is stated that the Scottish Government's commitment to the concept of sustainable development is reflected in SPP'S Purpose. It is also reflected in the continued support for the five guiding principles set out in the UK's shared framework for sustainable development. Achieving a sustainable economy, promoting good governance and using sound science responsibly are essential to the creation and maintenance of a strong, healthy and just society capable of living within environmental limits.

The principle in delivering this through the Development Management function is contained in paragraph 33 of SPP, in which it is stated 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. Decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in this SPP. The same principle should be applied where a development plan is more than five years old.

Paragraph 110 of SPP states that the planning system should identify a generous supply of land for each housing market area within the plan area to support the achievement of the housing land requirement across all tenures, maintaining at least a 5 year supply of effective housing land at all times.

East Lothian Council adopted its Local Development Plan on 27 September 2018 and as demonstrated by the 2017 Housing Land Audit has a 6.2 years effective housing land supply. The ELLDP 2018 sets out a development strategy for the future of East Lothian to 2024 and beyond, as well as a detailed policy framework for guiding development. It sets out the Council's settled view of where new development should and should not occur, including housing, education, economic and retail development, new transport links, and other infrastructure. The application site is an allocation of the plan which provides part of the plan's strategy and housing land supply. In this the proposal

complies with Policies 5 and 7 of the approved South East Scotland Strategic Development Plan (SESplan) and Policies HOU1 and HOU2 of the adopted ELLDP 2018 and with Scottish Planning Policy 2014.

A further material consideration is Scottish Government Policy Statement Designing Streets, and Planning Advice Note 67: Housing Quality. They provide an overview of creating places, with street design as a key consideration. They advise on the detail of how to approach the creation of well-designed streets and describe the processes which should be followed in order to achieve the best outcomes. PAN 67 states that the planning process has an essential role to play in ensuring that the design of new housing reflects a full understanding of its context in terms of its physical location and market conditions, reinforces local and Scottish identity, and 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.

Also material to the determination of the application are written representations. Three representations have been received in respect of the application, copies of which are contained in a shared electronic folder to which all Members of the Committee have had access.

The Dalrymple Trust comments that whilst it does not object to the principle of the mixed-use development as proposed, it considers that there remains little detail provided as to the boundary treatment proposed for the conjoined boundary of the proposed development site with the Newcraighall East (Edinburgh) site to the north. The Trust is of the view that this runs contrary to the requirements of the Council's Development Brief for the site and that further detail is required to demonstrate that cognisance has been taken of the consented landscape edge of the Newcraighall East Site and for the Dalrymple Trust to make a meaningful response to the planning permission in principle application.

The Trust comments also that whilst the Design and Access Statement sets out a 15-year phasing programme for the delivery of the residential element of the wider mixed-use development, there is no apparent equivalent for the business element of the proposed development including the proposed Area 5 – Innovation Park that is adjacent to the Trust land holding. This is an omission and requires to be rectified to give commitment to the Council, community and adjacent landowners.

Musselburgh Conservation Society objects to the proposal. It considers that the major development here will be very close to major development in Edinburgh at Newcraighall and in Midlothian at Shawfair, in its view turning the whole area into a cross border urban sprawl and effectively becoming an extension of Edinburgh's built up area. The Society takes the view that 1500 dwellings being proposed here would contribute to over urbanisation, with more than double the number of dwellings suggested in the Main Issues Report. The Society had suggested a figure of just over 1000 dwellings, recognising the advantage of development in a location that would allow generated traffic easy access onto the A1 rather than channelling it into Musselburgh town centre. The Society therefore requests that conditions be put in place to make the level of

housing proposed as acceptable as possible in terms of layout, design, amenities and access to walking and cycling routes and to public transport, including for access to Musselburgh Grammar School. The Society also has a concern that there is apparently no safeguarding for a route for tramline 3 from Newcraighall to Musselburgh Station.

Scott Hobbs Planning has commented on the application on behalf of Queen Margaret University and requests that these comments are taken into consideration by the Council in determining the application. The representation notes that, other than the QMU East site, the phasing of the development over the next ten years would see some 800 houses delivered at Old Craighall and New Monktonhall, accessed from the existing road network and served from the Old Craighall junction on the A1. It is stated that it is essential that the existing peak time problems experienced at this junction are not exacerbated by the proposed phasing of the development, and that appropriate mitigation measures are secured by the Council as part of the planning obligation. Further, it is stated that the University encourages the Council to require a mix of development in the first ten year phases, other than solely residential (was currently proposed). Further, it is noted that, in the absence of mitigation associated with the proposed phasing of the development including industrial/employment development and the early delivery of the grade separated junction at Queen Margaret University, the new junction is unlikely to be delivered until around 2029. The Council is encouraged to secure this mix, and associated infrastructure delivery, as part of the planning obligation. In respect of the applicant's Design and Access Statement the representation advises that page 85 refers to 'QMU Parkland' on the site of the University's proposed phase 2 development, and considers that this reference should be deleted. In respect of the applicant's Transport Assessment the representation states that it makes reference to committed development being sourced from the LOP Transport Appraisal (August 2016). This refers to committed residential and employment development only, and QMU would request that confirmation is provided from the applicant that the phase 2 development at the University has been included as committed development in assessing the impact of the proposed development on the existing and proposed infrastructure provision.

No comments have been received from Musselburgh Community Council as a consultee.

The Masterplan, Design and Access Statement, Planning Statement and other supporting design documentation submitted by the applicant shows indicatively how the site could be accessed and laid out to support the level of mixed use development proposed and seek to explain how the development complies with the Council's approved Development Brief for the site.

For Area 1 it sets out how a school, local centre, residential development, open space, three sports pitches with accommodation and SUDS could be laid out on this part of the site. Access would be taken from 3 points on the B6415, with a rerouting of traffic away from the existing village. The school would be located north of Old Craighall village and allow for accessibility from all residential areas of the overall site. The sports pitches would be located on the northern part of this area with woodland planting between them and the A1. This would mean the residential part of this area would be located away from the A1 to assist with noise mitigation.

Area 2 would be laid out with two accesses from the B6415 road with a residential street network, central and peripheral open spaces, an informal sports pitch, SUDS and woodland planting. This part of the site is the subject of application for planning permission 15/00337/PM for a detailed layout and design of the site and which is reported also on this Planning Committee agenda.

Area 3 is shown with access off an altered junction at the A1/Queen Margaret University, which would allow for access to this part of the site. Employment land is shown on the western part of the area adjacent to the Millerhill Marshalling Yards, with residential development and an indicative street network shown on the middle and east of this area and areas of open space on the northern, and southern parts of the area linked by a central open space. SUDS would be located on the northern and southern parts of the area.

Area 4 is indicatively shown as an innovation park, accessed from the A1 at the Queen Margaret University junction, with areas of development, open space and SUDS and with planting to the boundary with Newcraighall.

Area 5 is indicated as residential development and allowing for a potential relocation of the car park for Queen Margaret University, which has a masterplan proposal for redevelopment of the existing car park, though has not submitted an application for this at this point in time. Access to this could be from the road serving Queen Margaret University campus or potentially from Whitehill Farm Road.

Pedestrian and cycle links, including proposed provision for a part of the Council's Segregated Active Travel Network, are shown in and around the site and to the surrounding areas. These would utilise existing underpasses and an overbridge to the East Coast Main Line and rail freight loop and underpasses to the A1. These would include for access to the Monktonhall and Stoneybank areas of Musselburgh, to the railway station and Queen Margaret University and to Newcraighall, Old Craighall and potentially through to Fort Kinnaird and new development at Shawfair.

The Masterplan and the Design and Access Statement set out this form of development based on an analysis of the site and of the surrounding area, the ELLDP 2018 Proposal MH1 and the Development Brief through its draft stages.

In addition to how the site might be accessed and laid out for the relevant uses, the Masterplan also shows indicatively how the open space, landscaping and SUDS arrangements would be accommodated.

The indicative vehicle access routes into the site address the key principles of the Development Brief. The Council is preparing a detailed application for the design of the amended Queen Margaret University Junction on the A1 and intends to submit this shortly. Each of the accesses from the B6415 into the relevant areas of the site and the proposed rerouting of the main route through Old Craighall village would be subject to detailed design as part of the approvals of the layout and design of those parts of the development and this can form part of the conditions of any grant of planning permission in principle.

The indicated linkages around the site address the principles of pedestrian and cycle access required. In detail, the route shown for the Segregated Active Travel Corridor is shown deflecting to the existing cycle path to Newcraighall rather than being a direct route to Newcraighall as part of the new development on the land of Area 4 to the northwest of the University. An indicative route is shown to link up with Whitehill Road in the northwest of Area 3 (rail loop) which allows for a pedestrian and cycle link through to Fort Kinnaird, Edinburgh and there is clear scope to ensure that the detailed design of development on this part of the site provides an implementable link to the existing road, which remains adopted since the severance by the A1(T) of its original route through the site and across to the Stoneyhill area of Musselburgh. The applicant proposes a route from Area 3 (rail loop) to the B6415 via the existing rail overbridge and through Area 1 as access to the new school/local centre, fulfilling the requirement of the Development Brief for a route to the B6415. All of this essential connectivity requires upgrading of existing

paths and routes around the site in addition to the provision of new ones, including as they use the underpasses and overbridge which provide links. Additionally, the applicant proposes that land be safeguarded around the overbridge between Area 3 (rail loop) and Area 1 at Old Craighall should the Council consider that it may be beneficial in the future to have a vehicle route between those two areas. Conditions of any grant of planning permission in principle can require these routes and requirements to be fulfilled.

As regards built form, the Masterplan shows indicative road and block patterns of residential and employment areas based around a hierarchy of streets.

The Design and Access Statement provides further detail of development patterns, indicating that buildings in much of the site would be one or two storeys in height but that there are opportunities in the layout where feature buildings would be appropriate, which may be in terms of their architectural treatment or in certain locations three or four storey buildings. The design details of the Design and Access Statement should be pursued in detailed applications. In respect of the Council's Urban Design Standards these in part would apply to the detailed design of the development, however, in respect of the general layouts indicatively show in the application these would allow for appropriate streets and building relationships within the site and for amenity of the homes to be built.

In respect of Area 2 southeast of Queen Margaret University there is an existing planning permission (ref (ref 13/00211/P and 14/00468/P)) for a wind turbine on University land close to the boundary of the campus with the rail line and Area 2. This would result in shadow flicker and noise impacts which would be detrimental to the amenity of any properties constructed in Area 2 were both developments to proceed. However, the Council has received a legal undertaking from the University that it will not pursue development under that planning permission, and this binding agreement is sufficient to ensure that this situation would not arise.

The density of the proposed residential development areas with the proposed 1500 homes would be appropriate to the requirements of Policy DP3 of the adopted ELLDP 2018.

Landscape structure for the site is shown as being provided for by existing and additional tree planting alongside railway and A1 boundaries, by linear and semi natural open spaces and a wetland parkland area around the Cairnie Burn.

The Council's Landscape Officer advises that the Landscape and Visual Assessment (LVIA) submitted as part of the Environmental Statement which accompanies the application states that the Masterplan has been designed to minimise potential impacts including:

- Orientating main frontages to the A1
- Addressing public open space with housing frontage
- Series of green links throughout development to break up built form when viewed from a distance or from a raised viewing position.
- Blocks of woodland planting and raised mounds to break up strategic open space
- Extend Old Craighall north to focus on the existing Cairnie Burn
- Introduce pockets of open space within development areas to enliven routes through the site by offering internal glimpses and views of clusters of trees.

She advises that the masterplan image on page 10 of the LVIA gives a better indication of the proposals by showing woodland planting areas rather than just generic open space. The LVIA has been used to inform the design of the Masterplan and therefore she

considers that the Masterplan should reflect the LVIA image.

The Landscape Officer considers that it is important to provide green network habitat links through the site to include both woodland and waterways. She advises that the landscape framework proposed within the Masterplan has the potential to create connected green infrastructure on the site. She further advises that the design philosophy should include to create unique community areas throughout the site to create a sense of place and ownership and allow easy navigation throughout the development and that the use of higher feature buildings within the western section of the site could be considered to link with the scale of the surrounding development at QMU to the east and the energy from waste plant to the west.

She recommends that a strategy for structured landscaping should be developed to enable landscape including woodland planting, wildlife network, SUDS, wildlife reserve along the Cairnie Burn and pedestrian and cycling routes create a frame for the detailed development areas. She suggests that this be made a condition of any consent, to include details of implementation, maintenance and management of strategic landscaping prior to the granting of any detailed planning applications for the site. Scottish Natural Heritage (SNH) advises that the proposed landscape framework has the potential to provide an appropriate level of connected green infrastructure on the site and that detailed landscape proposals and commitments to maintenance and management be clarified and produced in advance of project implementation.

The Landscape Officer also advises that trees and woodlands shown on the Masterplan under the high voltage electricity cables that run north to south across the western section of the site may not be acceptable to Scottish Power and that the details of this should be confirmed should the high voltage cables be kept overhead and not underground. The applicant confirms that there can be no woodland planting under the pylons or within a 'sway leave' corridor. Therefore the detailed landscape strategy must take account of this so that species and planting on this part of the site is appropriate to it.

She further advises that open space should permeate through the site to allow safe and attractive routes to school.

The Landscape Officer further advises that the identification of a wetland parkland nature reserve along the Cairnie Burn to the south of the site, and the proposed opening of the culvert through the northern section of the eastern part of the site addresses a water infrastructure need of the green network. She considers that it would be preferable for the indicated SUDS basins to be ponds rather than dry basins or ponds as ponds would improve biodiversity and provide some biodiversity connectivity to the large SUDS pond at QMU to the north.

In terms of landscape and visual impact considerations, SNH recognises that this is a very important development site due to its size and its location at the nexus of three local authority areas. This site will form a 'gateway' to Edinburgh as well as a strategically vital link between Edinburgh and East Lothian in terms of active travel and green networks. The strategic location of the site on the current urban fringe also presents an opportunity to create a "gateway" of built development and landscape between Edinburgh City and East Lothian.

The Council's Access Officer advises that he is happy to see a reasonable amount of open space in the development with good path connections through and around the site.

The Council's Principle Amenity Officer has given consideration to allotment provision

and is of the view that it would not be viable to require on site provision due to the relatively small number of plots this would mean, even on a site of this size. However, he does require that a commuted sum be paid for future allotment provision arising as a result of the development and for this site this would be a contribution of £18,742.50, which could be required through the Section 75 agreement for any grant of planning permission in principle.

In respect of play provision the detailed design of the development would require to meet the Council's standards for provision and accessibility. For formal sports provision, the Council's Sport, Countryside and Leisure service advises that the proposed level of sports provision by way of three pitches and a changing pavilion would be appropriate for the development. This could be provided by the developer to a specification agreed, and transferred to the Council on completion, or otherwise subject to a developer contribution of £555,000 for the 3 sports pitches and £960,000 for a 6 team pavilion.

This can be made subject to provisions of a Section 75 agreement for the required contribution.

On matters of landscape and placemaking, SNH commented on some differences of land uses and landscape framework between the Development Brief and the submitted masterplan in relation to a reduction in the width of planting area along the western boundary of the site with Millerhill Marshalling Yards, an increase in the set back of development from the A1, in relation to on-site roundabout infrastructure, a large area of linear open space included as part of a way-leave for the pylons which are to be retained, as well as a wide green corridor either side of the watercourse in the southern sections of the site. SNH assumes these changes have been made on grounds of technical information related to noise, flooding or other ground conditions and the natural evolution of placemaking ambitions for the site. In respect of these matters, Area 3 in the freight rail loop will be subject to detailed design considerations and the development area shown in the Masterplan for employment development is appropriate and conditions of any grant of planning permission in principle can control how that is developed out. The green corridors and areas shown in this area do not conflict with the Development Brief, which leaves the design of them open, however, they are indicated in the masterplan on the basis of the Flood Risk Assessment for this part of the site and to provide green connections through it. Increased set backs of residential development in relation to the A1 reflects the output of junction design work and noise studies and the approved Development Brief allows for this.

SNH further advises that there are risks in respect of the more prominent and more elevated areas of the site along the eastern boundary of the marshalling yards if there were to be poorly sited, poorly scaled, or poorly co-ordinated built form in these locations. It advises that further information should be sought on the parameters for built development in these locations including siting, scale, massing and colour of built form, as well as the landscape planting or mitigation which may help to visually integrate built form. These matters can be required by condition as part of the landscape strategy for the site as a whole and detailed design for the development of that part of the site.

In respect of its connectivity considerations, SNH notes the proposed connections between parts of the site but that there are no such provisions for crossing the rail line between the area within the rail loop and Old Craighall and the B6415. SNH suggests there should be clear and direct linkages across the rail line at the southern end of the proposed development to directly link the future Craighall community to the wider Shawfair development, which includes important neighbourhood and transport facilities, however, this is provided for by the link over the existing overbridge and routes to the north of the rail loop, as set out earlier in this report.

SNH also questions the route of the Segregated Active Travel Corridor in respect of the Development Brief, specifically in respect of its route from Newcraighall through to Musselburgh Rail Station, which seeks to utilise existing sections of the NCN1 cycle path, while creating new connections through the north-east corner of the development. SNH considers this to be a “wandering” route. The Council’s Access Officer notes that the Segregated Active Transport Corridor is marked on the masterplan documents though is not sure all is shown in the correct location within the site, referring to the route shown in the adopted ELLDP 2018. That route is shown indicatively in the ELLDP 2018 and the Access Officer acknowledges it should be parallel with the railway as it passes through the site, which is where it is shown in the detailed application (15/00337/PM) reported on this Planning Committee agenda.

In terms of approved plans for development at Newcraighall within the Edinburgh boundary, to the north of the site, the approved and proposed plans for that area show a street pattern and key routes which could connect with the link indicatively shown on the Development Brief between that site and Area 4 (Innovation Park). A direct route along the northeastern boundary of Area 4 may provide for a link through at part of Newcraighall boundary of Area 4 through an underpass in the disused railway embankment there, however an active travel link should also be provided through Area 4 to the new development at Newcraighall and provide a link there also. This would allow the Segregated Active Travel Highway to pass from Brunstane in Edinburgh through new development at Newcraighall and into East Lothian through new development at Craighall without a significant detour around to the NCN1 path at the west end of Newcraighall.

As referred to earlier in this report, the route can be made a condition of any grant of planning permission in principle as can the specification of the paths required, including widths, as provided by Road Services consultation response further development at Newcraighall and Craighall. The more peripheral route or routes through Stoneyhill may have to provide for development prior to the development of Area 4.

SNH also raises the consideration of active travel connections in the north-west area of the site. As referred to earlier this can be provided for.

Amendments have been made to the Masterplan to address issues and concerns arising from consultees and, together with appropriate conditions of any grant of planning permission in principle and any required developer contributions, these would ensure successful development of the site conforming with the Development Brief.

On those matters of design, layout, street hierarchy, building heights, access, open space and connectivity the proposals are in accordance with the Development Brief and, subject to appropriate conditions to ensure suitable development and connectivity during and after the development of the site, would result in a form of built development which would be appropriate for its place. In respect of these matters the proposals comply with Policies 1B of the approved South East Scotland Strategic Development Plan (SESplan) and DP1, DP2, DP3, DP4, DP8, DP9, DC10, OS3, OS4, and OS5 and Proposals MH1, CF1 and T3 of the ELLDP 2018, with the Council’s approved Development Briefs Supplementary Planning Guidance, Developer Contributions Framework, Urban Design Standards and with Scottish Planning Policy 2014 and with Scottish Government Policy and guidance Designing Streets and PAN 67.

In respect of Policy SEH2 of the adopted ELLDP 2018 all new buildings, with certain exceptions, must include Low and Zero Carbon Generating Technologies (LZCGT) to meet the energy requirements of Scottish Building Standards, For larger developments, encouragement is given to site-wide LZCGT rather than individual solutions on each



separate building. These requirements can be made a condition of any grant of planning permission in principle for the proposals.

In respect of the Forth Special Protection Area (SPA) interests, Scottish Natural Heritage (SNH) initially advised that on the basis of the information available it would be unlikely to produce a robust appropriate assessment. However, subsequent to further work carried out by the applicant in respect of the linkage of the site to the SPA, SNH advises that the final version of the supporting 'Newcraighall Habitat Regulations Screening Request' presents a clear case that the site is actually unsuitable as a resource for these bird species. As such SNH confirms that no further assessment of impacts upon the SPA is required, and that an 'appropriate assessment' is not needed.

The Council's Biodiversity Officer advises that the habitat survey identified that the majority of the area was either arable or species-poor grassland, that the species lists indicated that there were no significant habitats or plant species on site and that the site has limited value for protected species, such as otter, water vole and bats. He considers that arable fields generally have limited habitat value although they can be used by some species that are listed in the citation for the Firth of Forth Special Protection Area. He notes that, accordingly, bird surveys were carried out between December 2017 and March 2018, to augment surveys carried out the previous year and that these demonstrated that Curlew was the only species of note observed on site, and this was only in relatively small number. Nonetheless the Biodiversity Officer advises that he would have preferred survey work to have included September, October and November as although the phrase 'wintering birds' is commonly used with regard to the SPA, the winter season extends from about September to March, inclusive, and some species tend to arrive earlier and thus may not be observed by later surveys. However, he considers the survey work to show with sufficient confidence that the site has limited ecological connection with the Firth of Forth SPA, reflecting similar conclusions with other large arable areas around Musselburgh being developed or proposed for development. He advises that as SNH are the statutory agency governing Natural 2000 sites he will support their recommendation.

In respect of the matters raised by SNH and the Council's Biodiversity Officer, the proposals comply with Policies NH1, NH5 and NH8 of the adopted ELLDP 2018.

Historic Environment Scotland (HES) advises that it is content that sufficient information has been provided to assess the planning application and that it does not object to the proposed development. In its EIA scoping comments it noted the potential for impacts on archaeological remains which may contribute to the special qualities of the Inventory Battlefield known as the Battle of Pinkie. In respect of the Environmental Statement submitted with the application HES is content that these potential impacts have been assessed using an appropriate methodology for its interests. It welcomes the fact that the assessment has considered the potential for impacts on the area of the battlefield which may contain remains of the Scottish camp the night before battle. Whilst HES notes that the impact is considered to be moderate, and therefore significant it is content that, should suitable mitigation measures be identified, the impact will not be significant for its interests and that the assessment identifies the potential for a mitigation strategy to be informed by archaeological investigation as advised by the Council's archaeological services. In this HES is content that an appropriate scheme would successfully mitigate any significant impacts for its interests and HES therefore does not consider the proposals likely to have a significant impact on the landscape characteristics of the battlefield.

HES further advises that it is content that other impacts on its interests will not be significant.

The Council's Heritage Officer advises that the site contains cropmarks of potential prehistoric features and it is known that this was an area of early historic mining, which could potentially date back to the medieval period. Some of the infrastructure of this early mining is still in place particularly the historic mining tramways around and across parts of the site. The Heritage Officer therefore advises that a Programme of Works (evaluation by archaeological trial trench) be carried out and the mining tramways be investigated to assess their extent and potential for inclusion in the design of the development.

In respect of the interests of Historic Environment Scotland and the Council's Heritage Officer the proposals accords with Policies CH4 and CH5 of the adopted ELLDP 2018, with Scottish Planning Policy June 2014 and with Planning Advice Note 2/2011.

The Council's Economic Development and Strategic Investment Service supports the proposals on the basis that they will create jobs, generate economic benefit and promote East Lothian as an area for investment.

The Coal Authority raises no objection to the proposals but advises that it concurs with the recommendations made in the reports submitted on behalf of the applicant by Mason Evans Partnership Ltd that coal mining legacy potentially poses a risk to the proposed development and that both further intrusive site investigations and remedial works should be undertaken prior to development. It therefore recommends that the Council impose a Planning Condition should planning permission in principle be granted for the proposed development requiring these works prior to commencement of development. This should include for the undertaking of an appropriate scheme of intrusive site investigations for those mine entries not already located on the site and for future detailed applications submissions in terms of gas monitoring, definition of any no build areas, treatment of any mine entries and remediation for shallow coal workings, together with details for implementation of any measures required.

In respect of this the Council's Environmental Protection Manager advises that extensive site investigation works and detailed risk assessments have already been carried out on the 5 areas of this site, with very little contamination detected. Likewise gas monitoring was undertaken with no issues being found. As the contamination that was identified will require remedial works to be undertaken, so he therefore recommends planning conditions be used to secure a remediation strategy and a validation report confirming any required works have been carried out, including for additional up to date gas monitoring.

The Council's Environmental Protection Manager also advises on a number of matters in respect of the application. He raises no objection to the proposals, but given the scale and likely duration of development on the site requires that planning conditions be used to control areas of consideration.

In respect of construction phase noise, vibration and dust he advises that any grant of planning permission in principle be subject to a condition requiring a Construction Method Statement for noise, vibration and dust monitoring to prevent any nuisance arising, with due reference to the relevant British Standards. He also recommends reference to Planning Advice Note (PAN) 50 "Controlling the environmental effects of surface mineral workings: Annex B – The control of dust at surface mineral workings" as although the proposed development is a Construction Site, the principles of impacts and mitigation remain the same and he advises that if these standards are adopted and managed correctly, will ensure that operations at the site will not constitute a nuisance to residential receptors within the vicinity of the construction work.

As regards noise impacts to the occupants of the development, the Environmental Protection Manager advises that proposed residential receptors may experience noise impacts from road and rail traffic and that a good acoustic design layout will be required to ensure garden noise levels can comply with the upper guideline value for daytime garden noise levels (55dBLAeq,T ). He advises that this will likely involve properties located on boundaries with the road and rail network being oriented so that they face or front the noise source with gardens being located to the rear and exposed edges of the boundaries being shielded by the building envelope, with gaps between buildings minimised. He recommends that upgraded specifications for glazing and ventilation will likely be required to protect internal amenity and ensure compliance with daytime and night-time internal noise levels, with reference to the relevant British Standard. In addition he advises that mitigation measures may also be required to adequately protect amenity of proposed sensitive receptors due to commercial sound arising from Millerhill Marshalling Yards and other existing and proposed commercial premises west of the site. Again, he recommends assessments and mitigation in respect of British Standards for the operation of commercial properties and the use of a standard NR25 noise condition.

In respect of air quality issues the Environmental Protection Manager has appraised the technical assessment of air quality submitted with the application and confirms he is satisfied that the development, including in conjunction with other committed developments in the Musselburgh cluster, will not have a significant impact upon local air quality, including on the Musselburgh High Street Air Quality Management Area. He advises that no exceedences of Air Quality Objectives are predicted to arise when the development becomes operational. He does recommend that principles of good practice described in the Environmental Protection Scotland/Royal Town Planning Institute Scotland guidance document “Delivering Cleaner Air for Scotland, January 2017” be incorporated into the design of the development, the provisions of which are generally met by Road Services and Building Standards requirements.

On these matters of noise, air quality and amenity the recommendations of the Environmental Protection Manager can be made conditions of any grant of planning permission in principle, subject to which the proposals comply with Policies RCA1, NH12 and NH13 of the adopted ELLDP 2018.

The Scottish Environment Protection Agency (SEPA) initially objected to the proposals in respect of flood risk. However, subsequent to the submission of additional flood risk information including a full Flood Risk Assessment, and discussions between SEPA and the applicant’s consultants, SEPA has withdrawn its objection, subject to any permission in principle being granted, planning conditions in respect of the following matters should be attached:

\* Before any development can commence on site, all flood risk assessment (FRA) documents submitted shall be consolidated to include all information provided throughout the consultation, for the approval of the planning authority in consultation with SEPA.

\* Before any development commences on each phase of the site, the phases being land to south of QMU, the land to the north of QMU, the land adjacent to Old Craighall and the land in the Millerhill rail loop, a detailed site layout for that phase shall be provided which clearly demonstrates that no development or landraising is proposed within the agreed functional floodplain extents as determined in the most recent masterplan (01 March 2019).

\* Finished floor levels for properties are set a minimum of 600mm above the predicted

flood level.

Subject to the use of such conditions, SEPA is satisfied that the proposals would not increase the risk of flooding on site or to other sites.

The Council's Team Manager for Structures, Flooding and Street Lighting has considered the applicant's Flood Risk Appraisal and raises no objection to the proposals.

Scottish Water raises no objection to the proposal. It advises in respect of water supply that there is currently sufficient capacity in the Glencorse Water Treatment Works although further investigations may be required to be carried out once a formal application has been submitted to it. Scottish Water also advises that there is currently sufficient capacity in the Edinburgh PFI Waste Water Treatment Works although further investigations may be required to be carried out once a formal application has been submitted to us.

Subject to the use of relevant conditions on detailed SUDS design, on flood risk and on drainage considerations the proposals accord with Policies NH10 and NH11 of the adopted ELLDP 2018 and with SPP 2014.

Transport Scotland raises no objection to the proposals, subject to the use of a planning condition limiting the number of residential units to 1500 and that East Lothian Council will secure appropriate and proportionate financial contributions from this site to address the cumulative impact on the strategic transport network arising from development. The basis for the financial contributions will be as set out in the Council's 2018 Developer Contributions Framework, and will include contributions towards improvements at the Old Craighall, Salter's Road and Bankton trunk road junctions.

The Council's Road Services raise no objection to the proposals. It advises that the proposed site is included within the adopted ELLDP 2018 and was included within the East Lothian Council Transport Appraisal to determine the cumulative impacts of development on both the strategic and local road network. The model highlighted that the development of this site will have a cumulative impact on the wider strategic road network, however, it can be accommodated within the local road network in terms of road capacity.

The Council's Transport Appraisal (TA) informed the Council's Developer Contributions Framework (DCF) and has been produced in conjunction with the Local Development Plan TA so that Road Services can assess the cumulative impacts of the Local Development Plan allocations on the Transport Network. The TA has identified a number of hot spots on the network which require interventions to mitigate against the Local Development Plan and was included within the East Lothian Council Transport Appraisal setting out the appropriate contribution levels for each of the Local Development Plan sites.

For the Craighall MH1 site the requirement for developer contributions towards each intervention as identified through the above process is as follows (the works are detailed in the Transport Appraisal, references given here are to the ELLDP 2018 proposals, for information on the types of works). For the residential aspect of the proposals these are as follows:

- Proposal T15 improvements to Old Craighall junction - £12,145
- Proposal T17 improvements to Salters Road Interchange and Bankton Interchange - £16,011 and £19,827
- Proposals T8 and T10 improvements to the rail network - £206,340

- Proposal T21 Musselburgh town centre improvements - £2,535
- Proposals T27 and T28 Tranent town centre improvements – £4,380
- Segregated Active Travel Corridor £681,750

For the employment aspect of the proposals, developer contributions are assessed on the level of floorspace to be created. As the full floorspace likely to be formed from the development cannot be definitively calculated at this time, the contributions are assessed per 100 square metres of development and full assessment will be deferred to detailed applications at the following rates, based on likely floorspace calculations:

#### Area 4 Innovation Park northwest of Queen Margaret University

- Proposal T15 improvements to Old Craighall junction (£22 per 100 sqm)
- Proposal T17 improvements to Salters Road Interchange (£11.43 per 100sqm) and Bankton Interchange (£6.70 per sq m)
- Proposals T8 and T10 improvements to the rail network (£205.68 per sqm)
- Proposals T27 and T28 Tranent town centre improvements (£2.39 per 100 sqm)
- Segregated Active Travel Corridor (£136.35 per 100sqm)

#### Area 3 employment land in rail freight loop

- Proposal T15 improvements to Old Craighall junction (£2.43 per 100 sqm)
- Proposal T17 improvements to Salters Road Interchange (£3.20 per 100 sqm) and Bankton Interchange (£3.97 per sqm)
- Proposals T8 and T10 improvements to the rail network (£41.27 per sqm)
- Proposal T21 Musselburgh town centre improvements – (£0.51 per sqm)
- Proposals T27 and T28 Tranent town centre improvements (£0.88 per 100 sqm)
- Segregated Active Travel Corridor (£136.35 per 100sqm)

The total contribution required for transportation improvements resulting from cumulative impacts of the residential development is therefore £942,988 and for the employment development will be, per 100 square metres floorspace developed, £384.55 for Area 4 and £188.61 for Area 3.

Road Services advises further on matters required to be considered for the detailed development of the site, including its recommendations for conditions of any grant of planning permission in principle in respect of access/driveway construction and other details.

In respect of the primary school and safe routes to school, Road Services advise that the new primary school should be made accessible by a high quality segregated foot and cycle path to all proposed residential areas and that pupil drop off by 'school run' should be discouraged through careful design of the new school and its road access.

In respect of this, conditions of a grant of planning permission in principle can require that in the phasing of the development each part of it connects to an appropriate path network linking to the primary school. Road Services advises that it must be required that no house within any phase of development is occupied until a route from each area to such a path network is available. Road Services recommend that such path network links to the school be in place prior to development commencing with street lighting prior to occupation. However, completion of a full primary path network prior to commencement of development of a residential phase of a development would be unreasonable and not meet the tests of a planning condition. Therefore, it would be appropriate to require that the appropriate path network required for the relevant phase of development and any necessary links to it, be completed prior to any occupation. A phasing plan can be

required to demonstrate how this would work for each phase of the development and in relation to school provision.

In respect of discouraging vehicle 'school run', Road Services advise that a careful design of the new primary school can help to avoid issues of congestion, inconsiderate or dangerous parking and vehicle manoeuvring with the associated safety issues for children. Road Services would be consulted on an application for the detailed layout and design of the primary school and this matter can be appropriately addressed at that stage.

Road Services advises that the route of the East Lothian Council Segregated Active Travel Corridor will be partly be routed within the Masterplan site via areas 2 and 4, passing through Area 5 and that the standard of provision for this route is for a continuous 4.0 metre wide path with street lighting. It is also advised that where the applicant is able and willing to implement the works for the Segregated Active Travel Corridor within their site then the relevant developer contribution could be appropriately reduced.

In respect of other matters for each Area of the site, Road Services comments as follows.

Area 1 - It is proposed to re-route the B6415 public road via this area, bypassing the existing Old Craighall village main street. Whilst this proposal is accepted, it is advised that further consideration will be required with regard to the treatment and status of the existing road, specifically to retain access to existing properties. This can be required by condition.

Area 3 - Road Services recommends that development in this area be subject to completion of the altered A1 junction, which can be made a suspensive condition of any grant of planning permission in principle. Road Services advises that further improvements to vehicular access could be made by providing a vehicular access connection between Areas 3 and 1. The masterplan proposals show an area that would be safeguarded for the provision of a potential link. However, provision of a vehicle link here could encourage car use rather than pedestrian and cycle travel in relation to the new primary school and the local centre. Therefore it is not considered appropriate to require a vehicle access link to be provided. The Council's Public Transport officer expresses concerns that there is no direct pedestrian link from area to the B6415 road west of Old Craighall village, and that without this connection, residents and in particular school children will have no direct access to bus routes on the B6415. Road Services therefore advise that this should be addressed by provision of a footbridge or underpass connecting Area 3 to the north side of the B6415. This is provided for by the proposed route using the existing overbridge between Area 3 and Area 1, which would be upgraded.

Area 4 - A bus gate should be provided at the northern part of Area 4 where it would link to development at Newcraighall, Edinburgh, which could be used to prevent through traffic other than public transport.

Area 5 – vehicular access to the proposed residential development and/or a relocated Queen Margaret University car park should be via an extension of the Queen Margaret University Drive with re-configuration of the existing bus gate arrangements as may be required. This would not prejudice the potential in the future to open up access to Whitehill Farm Road at this point.

Outwith the site itself, at the B6415/Monktonhall Place/Ferguson Drive junction Road Services advise that the current 4 arm mini-roundabout is not adequate for its role in

providing for this part of the route of the Segregated Active Travel Corridor, and therefore recommends that this junction is converted to traffic signal control to enable pedestrian and cycle crossing of the B6415 at this point. Given this requirement is to improve an existing deficiency it would not be reasonable to require the developer to provide for this in full or for a contribution over and above their required payment towards the Segregated Active Travel Corridor.

As Areas 2 and 3 of the site adjoin the B6415, with a significant section of the B6415 realigned through Area 3, Road Services advise that the change in character to this road is such that it is recommended that a 30 mph speed limit be in place over the full extent of the B6415 from the western extent of development to the existing 30 mph limit near Old Craighall Services. This can be achieved through the use of a Traffic Regulation Order by the Council; as the development would provide street frontage to the B6415 then it is within the Council's policy to pursue this.

On a general point, Road Services notes that the proposals should take cognisance of legislation restricting sale of new petrol and diesel engine cars and therefore advise that the site should therefore be designed to facilitate the use of electric vehicles and the associated vehicle charging requirements. A condition can be used to require the inclusion of provision of charging points in detailed applications.

In respect of public transport the applicant has submitted indicative proposals on how bus access could be accommodated as the build out and construction of the application site proceeds. Road Services advises that this 'routing' plan is accepted and should be consolidated within road design and locating bus stops at appropriate points and with due regard to build phasing. This should endeavour to ensure that as build and occupation progresses, all households have access to, and are within 400 metres of a bus stop / route. To support this, Road Services advises that road design should ensure that bus routes be constructed to appropriate width, that bus shelters can be accommodated off footway, road width is available to provide pedestrian refuges (where required), traffic calming ramps (where provided) can accommodate buses and a bus turning facility is provided if a 'loop' is not available.

Road Services also advise that the area of land safeguarded would enable future improvements to be carried out at Musselburgh railway station and recommends that this is consolidated as a condition on any consent granted.

Road Services notes that officers have investigated whether the City of Edinburgh Council (CEC) has any proposals to extend the Edinburgh Tram Network to Musselburgh/QMU and if so, if a route or alignment had been identified. It is confirmed that there are no proposals to develop this route at present and that it is not possible to safeguard a defined route or alignment for a future tram extension. However, it would be prudent to safeguard the potential for that purpose in respect of the line into Area 4 of a disused railway line that previously connected to the ECML and that follows an alignment over Newcraighall Road (within City of Edinburgh) via a now dismantled overbridge.

Network Rail raises no objection to the proposal subject to a Section 75 agreement, taking account of its recommendations, being concluded prior to planning permission in principle being granted. It advises that it welcomes the approach taken by the Council in Policy DEL1 of the adopted ELLDP 2018 and in its Developer Contributions Framework in mitigating impacts from developments on transport network capacity and contributing to sustainable economic growth.

For background, development by Network Rail is informed by the rail industry's Long-Term Planning Process which takes a high-level view of funder and market requirements

over a 30 year planning window. This in turn is informed by the connectivity aspirations set out in Scottish Government transport policy comprising the Infrastructure Investment Plan; the National Transport Strategy; Scotland's Railways; and the Strategic Transport Projects Review.

The process is also influenced by Network Rail's forecast of rail demand on individual corridors and the capacity constraints that are likely to arise as a result of increases in passenger and freight demand. This long-term, high-level view informs the more detailed work required to make investment decisions in the short and medium terms. Because Network Rail is funded and regulated in five year Control Periods this process typically has a ten year window. The next Control Period (CP6) runs from April 2019 to March 2024. Following the Rail Industry initial response to Scottish Ministers 'Scotland's Rail Infrastructure' consultation the High Level Output Specification was published in July 2017. Further work is being done to develop some of the interventions proposed in the Scotland Route Study as Choices for Funders in CP6 and CP7 (2019-2029). Network Rail's Scotland Route Study 2016 and its Market Study identify, for the routes between North Berwick, Drem and Edinburgh Waverley, that ScotRail services will exceed 100 per cent of seating capacity (assumed to be six carriage trains) in the peak hour by the time they reach Edinburgh Waverley. The provision of improved infrastructure would support local passenger services improvements and contribute to accommodating the cumulative demand by either running longer services or increasing the frequency of services or undertaking additional operational activities to improve reliability and capacity. In the context set by the adopted Local Development Plan, there is an identified need to improve capacity by extending platforms at stations, including Musselburgh Station. This is reflected in East Lothian Council's adopted Local Development Plan and Developer Contributions Framework, and Network Rail therefore seeks a developer contribution of £206,340 for the housing element of the proposal towards the delivery of these works. Network Rail understands that the employment related rail contributions will be confirmed when employment AMSC applications come forward for the site. Further Network Rail requires the contribution to be gathered, managed and disbursed in accordance with the protocol described in the Developer Contributions Framework.

Network Rail also confirms its requirements for conditions on fencing along its boundaries with the site, that any SUDS installation be located at least 10 metres from the railway boundary, that planting take account of potential leaf fall on the railway line and a noise impact assessment in respect of impacts of railway noise and mitigation.

The developer contributions towards the required transport interventions of £942,988 and for the employment development, per 100 square metres, £384.55 for Area 4 and £188.61 for Area 3 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 these transport interventions the proposal is consistent with Policy DEL1 of the adopted ELLDP 2018, which stipulates that new development will only be permitted where appropriate provision is made for infrastructure required as a consequence of the development.

All of the above requirements of Transport Scotland, Road Services and Network Rail can be the subject of conditions and developer contributions as appropriate and subject to this the proposals accord with Policies T1, T2, T4, T8, T31 and T32 and Proposals MH1, T3, T10, T11, T15, T16, T17 and T22 of the adopted ELLDP 2018 and with the Council's Developer Contributions Framework.

Policy DEL1 of the adopted East Lothian Local Development Plan 2018 stipulates that



new development will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This includes funding necessary school capacity.

The Council's Depute Chief Executive (Resources and People Services) informs that the application site is located within the school catchment area of the new Craighall Primary School and Musselburgh Secondary Education zone as set out in Appendix 1 of the adopted ELLDP 2018.

The allocation of the MH1 site for mixed use development in the adopted ELLDP 2018 includes a requirement for the new Craighall Primary School. The site of the proposed school lies on land in the ownership of the applicant, who is willing to transfer the land at nil value to ensure the delivery of the new school.

The Depute Chief Executive (Resources and People Services) advises that he would not object to the proposals in respect of nursery and primary school provision subject to the transfer of the land for the primary school at nil value and a financial contribution to the Council of £8801 per housing unit (£13,201,500) for the costs of primary and nursery provision by way of the new Craighall Primary School.

The Depute Chief Executive (Resources and People Services) also informs that some development can take place in advance of completion of the new Craighall Primary School, enabled by temporary Education capacity for pupils from the development provided by means of a temporary 'hosting' arrangement at Stoneyhill Primary School for a limited period of 36 months. He advises that, in respect of the applicant's proposed phasing for housing completions, there will be sufficient capacity within Stoneyhill Primary School to accommodate the pupils arising from this development until the end of the academic year 2022/2023 – i.e. until June 2023.

In respect of secondary education provision the Depute Chief Executive (Resources and People Services) advises that secondary education capacity can be provided for the proposed development subject to a financial contribution to the Council of £4282 per unit (£6,423,000) towards additional school accommodation in the Musselburgh Secondary Education zone and a contribution towards required secondary school land of £419 per unit (£628,500).

The transfer of the required land and the required financial contributions of a total of £13,502 per unit (£20,253,000) for Craighall Primary School and the Musselburgh Secondary zone 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 DEL1 and Proposals MH1 and ED1 of the adopted East Lothian Local Development Plan 2018.

In accordance with Policy HOU3 of the adopted East Lothian Local Development Plan 2018 a grant of planning permission in principle would require to be subject to provision of 25% of all housing units to be developed as affordable housing i.e.375 units. They should be provided on site either by transfer of units or serviced land. If it can be demonstrated to the Council that onsite provision is not practicable, then off-site provision will be considered. If this is not practicable, then a commuted sum will be required in lieu of on or off site provision. this, or the off-site provision of the required affordable units is not practicable, a commuted sum payment should be made to the Council in lieu of such an on or off-site provision.

The applicant has submitted a programme of proposed completions, including for completions of affordable housing throughout the timescale of the development. This includes for the completion of 118 homes in the first phase of site development and further completions thereafter in the other site phases.

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 confirms they are willing to do, the proposal would be consistent with Policy HOU3 of the adopted East Lothian Local Development Plan 2018.

The National Health Service was consulted in respect of the cumulative impacts of the ELLDP 2018 and in respect of this application and has no requirements for capital contributions to infrastructure as a result of the proposals.

The applicant's Planning Statement sets out a commitment to the provision of appropriate broadband connectivity throughout the phases of the development and in this the proposals comply with Policy DCN2 of the adopted ELLDP 2018 and with Scottish Planning Policy 2014.

Section 59 of the Town and Country Planning (Scotland) Act 1997 sets a standard duration in relation to a planning permission in principle (i.e. planning permission subject to conditions that the development in question will not be begun until certain matters have been approved by the Planning Authority. The Act requires that applications for the approval required before development can be begun must be made within 3 years from the grant of planning permission in principle but also provides that the Planning Authority can issue a direction that different time periods apply in relation to the 3 year period for making an application for approval. In respect of timescales for development this is a large scale proposal phased until 2014. Therefore it may well take more than 3 years for the submission of applications for approval for all detailed matters for all areas of the application site. In this case it would therefore be prudent for the Planning Authority to direct in this case that the standard 3 year time limit should not apply and to further direct that applications for approval required before development can be begun must be made within 15 years of the grant of planning permission in principle.

## RECOMMENDATION

It is recommended that planning permission in principle be granted subject to:

1. A direction to substitute the period of 3 years referred to in Section 59(2)(a)(i) and (3) of the Town and Country Planning (Scotland) Act 1997 (as amended) with a period of 15 years.
2. The undernoted conditions.
3. 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 £942,988 in respect of the 1500 residential development and of £384.55 for Area 4 and £188.61 for Area 3 employment development, each per 100 square metres of employment related development, for the provision of transport infrastructure interventions as detailed in the adopted East Lothian

Local Development Plan 2018;

(ii) Either provision in kind of three community sports pitches and a six changing room facility, to be transferred to the Council at no cost or a financial contribution to the Council of £1,515,000 for provision of the same facilities;

(iii) The transfer at no cost of the land required for the new school site as shown in the applicant's masterplan, with the site formed to meet masterplan boundary perimeter levels and servicing requirements;

(iv) A financial contribution to the Council of £13,201,500 towards the provision of the new Craighall Primary School, and £6,423,000 and £628,500 towards the provision of secondary education capacity and land in Musselburgh;

(v) A financial contribution to the Council of £18,742.50 towards allotment provision.

(vi) A financial contribution to the Council of £23,590 towards the upgrading of the B6415 roundabout; and

(vii) The provision of 375 affordable housing units within the application site or if it can be demonstrated to the Council that this, or the off-site provision of 375 affordable housing units is not practicable, to secure from the applicants a commuted sum payment to the Council in lieu of such an on or off-site provision;

4. 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 an insufficient provision of transport infrastructure, community sports pitches and related changing facilities, a lack of sufficient nursery, primary and secondary school capacity, and the lack of provision of affordable housing contrary to Policies DEL1 and HOU3 of the adopted East Lothian Local Development Plan 2018.

1 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of all the dwellings and other buildings, the means of access to them, the means of any enclosure of the boundaries of the site and of gardens and other subdivisions of the site and the landscaping of the site and those details shall generally accord with the indicative Craighall Masterplan drawing dated 1 March 2019 and docketed to this planning permission in principle, other than as required by Scottish Government Policy Designing Streets and the Council's Design Standards for New Housing Areas, and as subject to the following conditions and shall address the following requirements:

a) Other than as proposed in the Design and Access Statement docketed to this planning permission in principle, or unless otherwise justified as an exceptional design feature, buildings on the site shall be no higher than two storeys;

b) Other than in exceptional circumstances where the layout or particular building type does not permit, houses and flats shall be orientated to face the street;

c) Where a building is located on a corner of more than one street, it shall have enhanced gable(s) to ensure it has an active elevation to each street it faces;

d) Notwithstanding that shown in the Indicative Master Plan docketed to this planning permission in principle there shall be no integral garages, unless they can be justified as an exceptional design feature, or where the housing unit would not be on the primary frontage of a street;

e) The detailed design of the layout shall accord with the principles set out in the Council's Design Standards for New Housing Areas and with Scottish Government Policy Designing Streets;

f) The external finishes of the residential, community and employment units and all hard surfaces shall be in accordance with a coordinated scheme of materials and colours that shall respect the layout of the development and shall promote stone, reconstituted stone or render as the

predominant finish to the walls of the residential units. This shall include for a variety of render colours where render is to be used;

g) The front, rear and side boundary treatments of each residential, community and employment unit shall be in accordance with a detailed boundary treatment scheme which shall provide for wall, hedge or railing boundary treatments where those boundaries face public spaces and for other appropriate boundary treatments between individual properties where not facing public spaces;

h) There shall be a separation distance of at least 9 metres between facing windows of a proposed new building and the garden boundaries of existing or proposed neighbouring residential properties; and a separation distance of at least 18 metres between directly facing windows of a proposed new building and the windows of existing or proposed neighbouring residential properties;

i) Unless otherwise agreed in writing with the Planning Authority, parking for the residential, local centre, primary school and sports pitch facilities components of the development hereby approved shall be provided at a rate as set out in the East Lothian Council's "Standards for Development Roads- Part 5 Parking Standards". This shall include for cycle parking;

j) Parking spaces in the local centre and other private parking areas shall be a minimum of 2.5 metres by 5 metres and spaces on the public road shall be a minimum of 2.5 metres by 6 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

k) Access to private parking areas other than driveways shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first ten metres. All courtyard parking areas, other than those with bin stores accessible from the roadside shall be accessible to Refuse Collection Vehicles, constructed to adoptable standard and with a T-shaped turning area of 23.5 metres length if that is where bin presentation points are located;

l) Private driveways shall be a minimum of 6 metres by 2.5 metres, double driveways shall be 5 metres by 6 metres or 3 metres by 11 metres.;

m) The use of stone chippings for private driveways is not approved. Driveways shall be hard surfaced with permeable pavements or a surface to be agreed in writing with the Planning Authority for at least the first 6 metres of their length from the public roadway or footpath;

n) All access roads within the development, other than as required by the above conditions, shall conform to East Lothian Council's "Standards for Development Roads" in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming measures. This shall also comply with ELC Design Standards for New Housing Areas and a detailed plan of street trees and street lighting to reduce forward visibility and traffic speeds within the development;

o) Road surfaces shall be blocks (permeable or non-permeable) on straight sections of road and corners shall be constructed with asphalt finish with coloured chip or with thermoplastic screed (i.e. 'Imprint' or similar);

p) The primary path network shall be lit (street lighting) and of a standard to allow shared use with cyclists (3.0 metres wide).

q) A Green Travel Plan to minimise private car trips and to encourage use of alternative modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority prior to the housing being occupied and /or the business units coming into operation;

r) Cycle parking for flatted residential properties shall be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed;

s) Provision within Area 3 (Millerhill Rail Freight Loop) of the application site, as denoted in the Council's approved Development Brief, of at least 20 hectares of employment land for Class 4, 5 and 6 uses of the Town and Country Planning (Use Classes) (Scotland) Order 1997;

t) Electric vehicle charging points shall be provided at proposed community facilities such as schools, recreation and retail/employment areas and for flatted developments and groups of housing units with no private driveway. Details to be agreed with the Roads Authority.

u) Charging points for electric buses shall be provided subject to bus routes, bus types in service and as assessment of demand carried out in consultation with the Roads Authority;

v) Provision of recycling facilities within the development. Details to be agreed with the Council's Waste Services;

Development shall not commence on each area of the site (1-5) as denoted in the Council's approved Development Brief, unless and until all of the details specified above have been submitted to and approved in writing by the Planning Authority for that area of the site, and development shall thereafter be carried out in accordance with the details so approved.

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment and in the interests of road and rail safety.

- 2 Notwithstanding compliance with condition 1 of this grant of planning permission in principle, the detailed design of the development of the innovation park denoted as Area 4 of the Council's approved Development Brief shall include for:
- a) The safeguard of land around Musselburgh Rail Station as shown on the Plan on Page 10 of the Design and Access Statement docketed to this planning permission in principle;
  - b) A detailed route for the Segregated Active Travel Corridor, to be agreed in writing with the Planning Authority and Roads Authority, taking account of assessment of the links which can be implemented to new development at Newcraighall;
  - c) Safeguarding of land to allow for a potential Tram link via the disused Newcraighall railway embankment;
  - d) Details of bus gate provision to control through traffic from Newcraighall to this area, to a specification and timings for implementation to be agreed with the Roads Authority;
  - e) Landscaping and planting design taking account of the detailed landscape design of the southeastern and northeastern boundaries of adjacent development at Newcraighall, Edinburgh the subject of planning applications 10/03506/PPP, 15/04112/AMC and any variations thereof.

Reason:

To ensure the provision of an adequate land safeguard in compliance with Proposals T3, T9 and T11 of the adopted East Lothian Local Development Plan 2018, the provisions of the Council's approved Development Briefs Supplementary Planning Guidance and in the interests of the visual amenity of the area.

- 3 The details to be submitted pursuant to condition 1 shall include delivery schedules and phasing plans that establishes the phasing and timing programme for the proposed development. It shall include the phasing and timing for the provision of education capacity, employment land, the local centre, the transportation works, the Segregated Active Travel Corridor, footpaths and cycleways and Safer Routes to School to ensure occupants of each part of the development can access the path network, external transport works such as offsite path links, the junctions of the site with the B6415 road, the provision of the junction alterations to the A1(T) trunk road. This shall also apply to the provision of drainage infrastructure, recreational facilities, landscaping and open space. The details to be submitted shall also include construction phasing plans.

The phasing of the development of the site shall be carried out in accordance with the phasing plan so approved, unless otherwise approved in writing in advance by the Planning Authority.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site.

- 4 Development of each area of the site, denoted as Areas 1-5 in the Council's approved Development Brief, or of any phase of development as approved in terms of Condition 3 above, shall not commence unless and until a Programme of Works (evaluation by archaeological trial trench) has been undertaken and reported upon in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority.

The Programme of Works shall include for investigation of the historic mining tramways that are extant upon the site to establish their extent and appraise options for their retention and incorporation into the landscaping and connectivity of the site, in agreement with the Planning Authority.

Reason:

In the interests of the cultural heritage of the area.

- 5 Before any development commences on site, all flood risk assessment (FRA) documents submitted shall be consolidated to include all information provided throughout the consultation, for the approval of the planning authority in consultation with the Scottish Environment Protection Agency and thereafter all phases of development shall be carried out in accordance with the consolidated flood risk assessment, unless otherwise agreed in writing by the Planning Authority in consultation with the Scottish Environment Protection Agency.

Reason:

To ensure that all agreed information shall be carried forward within the approved FRA and that site construction shall be carried out in accordance with the conclusions of the FRA about parts of the site at flood risk, which includes the preservation of flood plain and flow pathways in perpetuity.

- 6 Prior to the commencement of development of each area of the site (1-5) as denoted in the Council's approved Development Brief, a detailed site layout for that area shall be submitted to and agreed in writing by the Planning Authority in consultation with the Scottish Environment Protection Agency. The details shall:
- a) clearly demonstrate that no development or landraising is proposed within the agreed functional floodplain extents as determined in the approved indicative masterplan dated 1 March 2019 and docketed to this planning permission in principle.
  - b) include details of SUDS provision and any required flood risk attenuation measures;
  - c) provide that finished floor levels for properties shall be set a minimum of 600mm above the predicted flood level; and
  - d) provide that the Sustainable Drainage Scheme not be sited within 10 metres of the railway boundary and should be designed with long term maintenance plans which meet the needs of the development.

Thereafter the development of each area so approved shall be carried out only in full accordance with such approved details.

Reason:

In the interests of flood risk management, management of the water environment and to protect the stability of the adjacent railway and the safety of the rail network.

- 7 Prior to the commencement of development within the areas denoted as Area 3 in the Council's approved Development Briefs, a Sustainable Energy and Heat Report update shall be provided. The report update shall review the feasibility of options for a district heat network for the Craighall/Millerhill area and if feasible shall set out an options appraisal, including viability considerations.

Reason:

In the interests of sustainable development and and compliance with Policy SEH1 of the adopted East Lothian Local Development Plan 2018.

- 8 All new buildings shall include Low and Zero Carbon Generating Technologies (LZCGT) to meet the energy requirements of Scottish Building Standards, Compliance with this requirement shall be demonstrated through obtaining an 'active' sustainability label through Building Standards and submission of calculations indicating the SAP Dwelling Emissions Rate (DER) or SBEM Buildings Emissions Rate (BER) with and without the use of the LZCGT. LZCGT shall reduce the DER/BER by at least 10%, rising to at least 15% for applications validated on or after 1 April 2019. For larger developments, encouragement is given to site-wide LZCGT rather than individual solutions on each separate building.

Reason:

In the interests of sustainable development and compliance with Policy SEH2 of the adopted East Lothian Local Development Plan 2018.

- 9 A Construction Method Statement (CMS) or Construction Environmental Management Plan (CEMP) shall be submitted for approval prior to the commencement of development on each area of the site (1-5) as denoted in the Council's approved Development Brief. The CMS or CEMP shall outline measures to be taken to minimise impacts upon existing and proposed sensitive receptors due to noise and dust. Unless otherwise approved in writing by the Planning Authority these shall include compliance with:

a) "Best Practice Guidance" as recommended BS5228-1: 2009 + A1:2014 "Code of practice for noise and vibration control on construction and open sites - Part 1:Noise".

b) "Best Practice Guidance" as recommended BS5228-2: 2009 + A1:2014 "Code of practice for noise and vibration control on construction and open sites - Part2: Vibration"

c) Planning Advice Note (PAN) 50 "Controlling the environmental effects of surface mineral workings: Annex B - The control of dust at surface mineral workings"

d) The Construction Method Statement or Construction Environmental Management Plan shall recommend mitigation measures to control noise, dust, construction traffic (including routes to/from site) and shall include hours of construction work and routing of traffic. It shall also provide details of utility/service drainage connections.

Notwithstanding the above, applications for approval of matters specified in conditions or for

planning permission which are submitted shall include Construction Method Statement or Construction Environmental Management Plan addendums which make recommendations in respect of how pedestrians and school children can safely access Stoneyhill Primary School and/or Craighall Primary School as during construction works on the area of the site in which they reside.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development.

Reason:

In the interests of the amenity of existing and future residents of the area and in the interests of road safety.

10 Applications for approval of matters specified in conditions or for planning permission for each area of the site (1-5) as denoted in the Council's approved Development Brief shall include:

- a) a report of findings arising from the intrusive site investigations, including the results of any additional gas monitoring undertaken;
- b) a layout plan which identifies appropriate zones of influence for the recorded mine entries on site, and the definition of suitable 'no-build' zones;
- c) a scheme of treatment for the recorded mine entries;
- d) a scheme of remedial works for the shallow coal workings;
- e) timescales for the implementation of those remedial works;
- f) A Remediation Strategy detailing and quantifying any works which must be undertaken in order to reduce any contamination risks to acceptable levels;
- g) A noise assessment, including of railway noise, with details of mitigation measures demonstrating compliance with the upper guideline value for daytime garden noise levels (55dBLAeq,T) specified in paragraph 7.7.3.2 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings" and details of any required upgraded specifications for glazing and ventilation to protect internal amenity and ensure compliance with daytime and night-time internal noise levels specified in Table 4 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings."

Reason:

In the interests of the safety and amenity of future residents and occupiers of the development.

11 Prior to any approved building being occupied, a Validation Report shall have been submitted to the Planning Authority confirming that the remedial works have been carried out on that part of the site in accordance with the Remediation Strategy; and the presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority to determine if any additional remedial measures are required.

Reason:

In the interests of the safety and amenity of future residents and occupiers of the development.

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

Noise from plant and equipment associated with existing and proposed commercial sources shall not exceed Noise Rating curve NR25 at any octave band frequency within any existing or proposed residential property. All measurements to be made with windows open at least 50mm.

Reason:

In the interests of the amenity of future residents of the development.

13 The number of residential units hereby permitted within the development shall not exceed 1500.

Reason:

To ensure that the scale of development does not exceed that assessed by the supporting

Transport Assessment, and to ensure that the scale and operation of the proposed development does not adversely affect the safe and efficient operation of the trunk road network and to ensure adequate provision of education capacity.

14 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:

Year 2019/20	30 residential units
Year 2020/21	60 residential units
Year 2021/22	100 residential units
Year 2022/23 to 2024/25	120 residential units per annum
Year 2025/26 to 2033/34	100 residential units per annum
Year 2034/35	50 residential units

b) If fewer than the specified number of residential units is completed in any one year then those shall be completed instead at Year 2036 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.

15 Where not already provided the developer shall provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal should be made. Details of the proposed fencing shall be submitted to the Planning Authority for approval before development is commenced and the development shall be carried out only in full accordance with such approved details.

Reason:

In the interests of public safety and the protection of Network Rail infrastructure.

16 Prior to the commencement of development on any area of the site (1-5) as denoted in the Council's approved Development Brief or of any phase of development as approved in terms of Condition 3 above, a long term landscape and habitat management plan shall be submitted to and approved in writing by the Planning Authority. This shall show the landscape and planting structure for the whole of the site and must demonstrate:

a) how structured landscaping, woodland and tree planting (including specimen trees), SUDS and water features and walking and cycling routes (including safe routes to school) will be carried out throughout the development and how these will link with routes and green infrastructure around the edges of the site

b) an appropriate design for any landscaped and planted areas beneath overhead power lines

c) how the landscape structure would be implemented, maintained and managed during and after the development of the site, including details of what is expected to be adopted by the Council, what would be factored and how this will be implemented

d) The plan shall include a timetable for the implementation of the proposed works. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of the visual amenity of the area and its surroundings and to ensure compliance with the Council's approved Development Brief.

17 Prior to the commencement of development on each area of the site (1-5) as denoted in the Council's approved Development Brief or of any phase of development as approved in terms of Condition 3 above, a detailed landscape plan for that area shall be submitted for the approval of the Planning Authority. The detailed landscape plans shall include for the provisions of the landscape and planting structure to be approved in terms of condition 15 above and shall include that:

a) The detailed landscape plan shall provide details of: the height and slopes of any mounding on or recontouring of, the site; 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. It shall also include details of all planting and landscaping along the boundary of the site with the A1(T) trunk road and with the freight rail loop. Details shall include timescales for implementation;



b) Where trees/shrubs are to be planted adjacent to the railway boundary these shall be positioned at a minimum distance from the boundary which is greater than their predicted mature height. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary;

c) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in full accordance with such approved details in the first planting and seeding season following the occupation of buildings in that part of the development (unless otherwise approved in writing by the Planning Authority), and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

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, to ensure compliance with the Council's approved Development Brief and to control the impact of leaf fall on the operational railway.

- 18 The open space to be provided in the development shall generally accord with the indicative Craighall Masterplan drawing docketed to this planning permission in principle.

Prior to the commencement of development on each area of the site (1-5) as denoted in the Council's approved Development Brief or of any phase of development as approved in terms of Condition 3 above, details of and a timetable for the provision of the open space, play equipment and sports pitches, as required within that area, and of how the areas of open space, equipped areas and sports pitches within it are to be maintained, shall be submitted to and approved in advance by the Planning Authority. These shall include details of equipped and informal play areas to a specification to be agreed with the Planning Authority.

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

Reason:

To ensure the timely provision of an appropriate amount of open space, play provision and sports provision and to ensure the satisfactory maintenance of open space, equipped play areas and sports pitches in the interests of the amenity of the area.

- 19 Prior to the commencement of development on each area of the site (1-5) as denoted in the Council's approved Development Brief or of any phase of development as approved in terms of Condition 3 above, a strategy for the new speed limits and alternative travel modes within that part of the development and on the existing road network as affected shall be submitted to and approved by the Planning Authority. The strategy shall assess how these will be developed, including road safety audits and associated infrastructure (i.e. street lighting, signage etc). The strategy shall include full detailed designs for all the works on the existing public road including full road safety audits and quality audits This shall extend into the site to offer paths and cycling facilities within the site to ensure walking and cycling are the first modes to be considered for local trips. The strategy shall also detail controlled crossings that are necessary as well as bus stops and shelters. The strategy shall also include a timetable for implementation of any new speed limits as well as when controlled crossings and bus stops and shelters should be provided. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 20 Prior to the commencement of development on each area of the site (1-5) as denoted in the Council's approved Development Brief or of any phase of development as approved in terms of Condition 3 above, a vehicle tracking/swept path analysis for all internal roads and changes to external roads shall be submitted to and approved by the Planning Authority. The vehicle tracking/swept path analysis shall include the large design rigid (in accordance with the FTA associations Designing for Deliveries) over all the roads within the proposal site and large HGV (arctic etc) as well as large buses on main distributor roads and employment areas (including local centre). It shall also include all vehicles types including buses for the external routes/works. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 21 Prior to the commencement of development, a general, overarching travel plan framework for the whole development (including school and future business/economic uses travel) shall be submitted

to and approved by the Planning Authority. The framework shall include tools and mechanisms for each part of the development to use. It shall include measures to be put in place to encourage Public Transport penetration into the new settlement. It shall also include a timetable for implementation, Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 22 Prior to the commencement of development on each area of the site (1-5) as denoted in the Council's approved Development Brief or of any phase of development as approved in terms of Condition 3 above, details of accommodation of bus access in respect of that area shall be provided, the details of which shall accord with the applicant's submitted indicative proposals, which is accepted as a basis of road design and location of bus stop. The details so submitted shall demonstrate how all households will have access to, and be within 400 metres of, a bus stop/route.

Reason:

In the interests of transport accessibility.

- 23 Prior to the commencement of development on each area of the site (1-5) as denoted in the Council's approved Development Brief or of any phase of development as approved in terms of Condition 3 above, a strategy to establish how traffic regulation orders and parking restrictions will be needed, particularly in the local centre around schools, public buildings and shops as well as other areas throughout the site shall be submitted to and approved by the Planning Authority. Development should thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 24 Development of the application site shall be carried out in accordance with the following requirements:

a) Details of the implementation and design of infrastructure works onto the B6415, including realignment at Old Craighall village, junctions, road widening and delivery timescales shall be submitted to and approved by the Planning Authority. The submitted detail shall include full road safety audits and quality audits.

b) No development shall commence in the parts of the site denoted as Area 3 and 4 in the Council's approved Development Briefs Supplementary Planning Guidance prior to the completion of the proposed alterations to the junction of the A1 as indicatively shown on the drawings docketed to this planning permission in principle, to the satisfaction of the Planning Authority.

c) Prior to the commencement of development a detailed condition survey of the construction access route shall be jointly undertaken by the developer and East Lothian Council Roads Services. During the period of construction of the development a similar joint inspection shall be carried out to assess the condition of the route on each anniversary of the commencement of development. Any damage identified as a result of construction activities shall be repaired or resurfaced by the developer in compliance with the Council's specifications and requirements at no cost to the Council as Roads Authority.

d) Wheel washing facilities must be provided and maintained in working order during the period of construction of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres;

Reason:

In the interests of road safety and transport accessibility.

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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 26 March 2019  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

3

---

Application No. **15/00337/PM**  
Proposal Erection of 370 houses, 103 flats and associated works  
Location **Land At Craighall  
Musselburgh  
East Lothian**  
Applicant Persimmon Homes East Scotland  
Per HolderPlanning  
RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

As the application site is over 2 hectares in area and also the proposal is for more than 49 residential units, the application is a major development in terms of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Under the Council's Scheme of Delegation major development applications must be determined by the Planning Committee.

The officer recommendation is to grant planning permission in principle, subject to a Section 75 agreement for developer contributions required as an outcome of the development, to planning conditions to mitigate the impacts of the development and a direction in respect of the time period for submission of matters specified in conditions.

Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, major development applications must be preceded by a Proposal of Application Notice (PAN) at least 12 weeks beforehand, and by pre-application community consultation before an application for planning permission or planning permission in principle is submitted to the Council.

A PAN (Ref: 13/00008/PAN) was submitted on 30 October 2013 and the application was submitted on 29 April 2015, complying with the minimum 12 week period between PAN and application. A public event was held at Hope Church on Tuesday 10 December 2013 and a further public event at Brunton Hall, Musselburgh on 28 January 2014. A meeting

was also held with Musselburgh Community Council. A pre-application consultation report is submitted with this application, all in accordance with statutory requirements. The report states that 37 people attended the first event and 28 the second event. Event attendees and the Community Council raised a number of issues regarding the proposals.

The development for which planning permission is now sought is of the same character as that presented through the community consultation event. The principle of the development of the site was also subject to the pre-application procedures followed for application 18/00485/PPM for planning permission in principle for a proposed mixed use development comprising residential development, education, business, industry, storage and distribution, innovation hub (including class 2,3,4,5 and 6), employment uses, community facilities, residential neighbourhood centre (including class 1,2,3 and 10), playing fields, changing facilities, public park(s) and associated works, the subject of a separate report on this Planning Committee agenda.

The application site is part of the some 116.5 hectares of land at Craighall to the south of Musselburgh, allocated by Proposal MH1 of the adopted East Lothian Local Development Plan 2018 (ELLDP2018) for mixed use development and subject to application 18/00485/PPM as referred to above.

This part of the MH1 allocation comprises some 22 hectares of fallow agricultural land located around part of the southern edge of Musselburgh. It is roughly a quarter circle in shape, with northern boundaries to part of the Old Craighall rail loop with Queen Margaret University beyond to the northwest, and the East Coast Main Line and houses at Stoneybank, Musselburgh beyond to the north and northeast. The southeastern boundary lies along the B6415 Monktonhall-Old Craighall road, with part of Musselburgh Golf Course and Old Craighall services beyond. The southwestern runs along the A1 trunk road with undeveloped land subject of application 18/00485/PPM as referred to above.

The application site is within the inventory boundary of the Battle of Pinkie, a battlefield included within Historic Environment Scotland's Inventory of Historic Battlefields.

The Firth of Forth Special Protection Area is located approximately 1km to the north of the application site.

Planning permission is sought for a development of 370 houses, 103 flats and for associated works, those including formation of vehicle accesses, internal roads, landscaping, a Sustainable Urban Drainage System (SUDS) and open space.

The Development Layout plan shows in detail how the proposed homes would be set out, with two vehicle accesses from the B6415 along the southeastern boundary, one close to the north of that boundary and close to the south of that boundary, linking to the existing roundabout on the B6415 and which links that road with the Old Craighall junction. The internal road network formed off those accesses would provide roads and streets through the development, with flats and houses laid out in relation to these. Houses and flats would provide a streetscape frontage to the B6415.

Open space would be provided on northeastern, northwestern and southwestern edges of the development and also more through the development linking those spaces around the boundaries. A play park would be located centrally in the development adjacent to the central linking open space. A playing field would be formed on part of the northeastern area. A SUDS basin would be formed on the northmost part of the site. Part of the line of the culvert running through the site would be opened up. Pedestrian and

cycle routes would be formed around and through the site, including part of the implementation of the East Lothian Active Travel Corridor as it would pass through the northeastern part of the site. Pedestrian and cycle routes would be formed through the existing two rail underpasses towards Musselburgh, under the A1 at the northwestern corner of the site to other parts of the MH1 allocated site. Links would also be provided alongside the B6145. Structural tree planting is proposed along part of the northern boundary with the railway line. A pumping station and electricity substation would be located to the north of the northern access to the site.

A mix of housing types is proposed. Affordable housing would be provided in three groupings in the site, to the northeast, southwest and northwest. The mix of the 118 affordable units would be 16 one bedroom cottage flats, 39 two bedroom cottage flats, 33 two bedroom houses, 26 three bedroom houses (including two bungalows) and 4 four bedroom houses. These would include for elderly amenity and wheelchair user needs and tenures would be a mix of social rent and mid-market rent.

The market housing would comprise of 12 one bedroom flats, 84 two bedroom flats and houses, 133 three bedroom houses, 118 four bedroom houses and 8 five bedroom houses.

The application is supported by, amongst other documents, a Pre-application Consultation Report, a Design and Access Statement, a Transport Assessment, a Flood Risk and Drainage Statement, an Ecology Statement, a Noise Impact Assessment, an Archaeology assessment, Site Investigation survey and Topographical Survey.

Since the registration of the application revised site layout plans, revised elevation plans and house type and flatted building drawings have been submitted to show revisions to some of the types and their locations and positioning. The revised plans also show how the layout of the development would accommodate an enlarged roundabout at the southern junction of the application site. A revised Design and Access Statement and a further Flood Risk Assessment have also been received.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 15 January 2015 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the residential development of the scale proposed is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission in principle. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA. As set out in the report on application 18/00485/PPM for planning permission in principle elsewhere on this Planning Committee agenda, the site of which this forms a part has been subject to an Environmental Statement.

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 Development Plan 2018.

Policies 1B (The Spatial Strategy: Development Principles), 5 (Housing Land) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) are relevant to the determination of the application.

Policies 1B (The Spatial Strategy: Development Principles), 5 (Housing Land) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) are relevant to the determination of the application.

Policies RCA1 (Residential Character and Amenity), DP1 (Landscape Character), DP2 (Design), DP3 (Housing Density), DP4 (Major Development Sites), DP8 (Design Standards for New Housing Areas), DP9 (Development Briefs), DC10 (Green Network, NH1 (Protection of Internationally Designated Sites), NH5 (Biodiversity and Geodiversity Interests), NH8 (Trees and Development), NH10 (Sustainable Urban Drainage Systems), NH11 (Flood Risk), NH12 (Air Quality), NH13 (Noise), CH4 (Scheduled Monuments and Archaeological Sites), CH5 (Battlefields), DEL1 (Infrastructure and Facilities Provision), HOU1 (Established Housing Land), HOU2 (Maintaining an Adequate 5 year Effective Housing Land Supply), HOU3 (Affordable Housing Quota), OS3 (Minimum Open Space Standard for New General Needs Housing Development), OS4 (Play Space Provision in new General Needs Housing Development), OS5 (Allotment Provision), T1 (Development Location and Accessibility), T2 (General Transport Impact), T4 (Active Travel Routes and Core Paths as Part of the Green Network Strategy), T8 (Bus Network Improvements), Policy T31 (Electric Car and Bus Charging Points), T32 (Transport Infrastructure Delivery Fund), DCN2 (Provision for Broadband Connectivity in New Development), SEH2 (Low and Zero Carbon Generating Technologies) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Proposals MH1 (Land at Craighall, Musselburgh), ED1 (Musselburgh Education Cluster), T3 (Segregated Active Travel Corridor), T15 (Old Craighall A1(T) Junction Improvements) and T17 (A1(T) Interchange Improvements) of the adopted East Lothian Development Plan 2018 are also material to the determination of the application.

The Council's approved Development Briefs Supplementary Planning Guidance supplement policy in the ELLDP 2018 and can be a material consideration in the determination of planning applications. They are a set of guiding principles, and indicative design, to be followed where possible. Policy DP9 of the ELLDP 2018 requires that development conform with the relevant brief.

The Development Brief for the overall MH1 allocation refers to the areas of the site and proposed forms of development within these as set out above. It also includes design guidance for access, internal connections, landscaping and layout and design.

The "Design Standards for New Housing Areas" Supplementary Planning Guidance was approved by the Council on 10 March 2008. A revised version was approved for consultation by the Council on 27 October 2018 and for further consultation on 26 February 2019. This guidance requires that a more flexible approach be taken in road layout and design for proposed housing developments and sets core design requirements for the creation of new urban structures that will support Home Zone type development as well as establishing design requirements for the layout of and space between buildings. Developers must provide adequate information to the satisfaction of the Council to demonstrate the merits of their design.

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



2014. One of the main '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.

This is reflected in paragraph 25 of SPP in which it is stated that the Scottish Government's commitment to the concept of sustainable development is reflected in SPP'S Purpose. It is also reflected in the continued support for the five guiding principles set out in the UK's shared framework for sustainable development. Achieving a sustainable economy, promoting good governance and using sound science responsibly are essential to the creation and maintenance of a strong, healthy and just society capable of living within environmental limits.

The principle in delivering this through the Development Management function is contained in paragraph 33 of SPP, in which it is stated 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. Decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in this SPP. The same principle should be applied where a development plan is more than five years old.

Paragraph 110 of SPP states that the planning system should identify a generous supply of land for each housing market area within the plan area to support the achievement of the housing land requirement across all tenures, maintaining at least a 5 year supply of effective housing land at all times.

East Lothian Council adopted its Local Development Plan on 27 September 2018 and as demonstrated by the 2017 Housing Land Audit has a 6.2 years effective housing land supply. The ELLDP 2018 sets out a development strategy for the future of East Lothian to 2024 and beyond, as well as a detailed policy framework for guiding development. It sets out the Council's settled view of where new development should and should not occur, including housing, education, economic and retail development, new transport links, and other infrastructure. The application site is an allocation of the plan which provides part of the plan's strategy and housing land supply. In this the proposal complies with Policies 5 and 7 of the approved South East Scotland Strategic Development Plan (SESplan) and Policies HOU1 and HOU2 of the adopted ELLDP 2018 and with Scottish Planning Policy 2014.

A further material consideration is Scottish Government Policy Statement Designing Streets, and Planning Advice Note 67: Housing Quality. They provide an overview of creating places, with street design as a key consideration. They advise on the detail of how to approach the creation of well-designed streets and describe the processes which should be followed in order to achieve the best outcomes. PAN 67 states that the planning process has an essential role to play in ensuring that the design of new housing reflects a full understanding of its context in terms of its physical location and market conditions, reinforces local and Scottish identity, and 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.

Also material to the determination of the application are written representations. One written representation to the application has been made, from Musselburgh Conservation Society. The Society notes that it favours development in this area as opposed to Goshen (as proposed in a draft Local Development Plan) due to ease of access to the A1 trunk road and Edinburgh, its relationship with employment uses and that traffic would not have to go through the town centre to reach the Musselburgh Tesco store and other facilities. The Society does, however, note a need for A1 junction improvements, school provision and other facilities and a need for a masterplan of the wider site. The Society raises concerns over distances to public transport routes. In respect of all of these matters the Society considers the application to be premature.

The proposed design and layout of the development sees a mix of detached, semi-detached, terraced and flatted homes grouped around a street network. The net density of development on the site would be some 30 dwellings per hectare. The street network is added to by paths around and through the development across open space areas and linking the development along its frontage to Musselburgh to the north and Old Craighall to the south. The street network is designed to include traffic calming principles in terms of shorter street lengths, offset junctions and speed tables to reduce vehicle speeds. Parking is predominantly accommodated to the side/rear of houses or in parking courts as required by the Design Standards. Whilst some 20% of the development would have private driveway parking to the front of houses, however, there would also be terraced houses with street frontage parking which would add to the visual impact of parking in the development and it is therefore particularly important that those houses which do have private driveway parking will require to have robust front boundary treatments to ensure a sense of enclosure which would help to mitigate the impact of that frontage parking in the streetscape. With this in place then from this perspective the design of the development would be acceptable, though other phases of residential development on the MH1 site should address this issue more positively.

Other frontages should also have boundary treatments to ensure an appropriate distinction of public and private spaces. The plans show where brick walling rather than fencing would be used where rear boundaries are on public elevations. Whilst it is important to ensure that such boundaries have robust, quality finishes, the finishes of walls should be appropriate to the final finishes of the houses, flats and garages. A boundary treatment plan showing the positioning types, material finishes and heights for all properties, to include for front and rear boundaries, can be required as a condition of any grant of planning permission.

Given the scale and layout of the development there are a large number of corner plots and it is important to the streetscape of the development that gables and boundary treatments around all of these are of a design and material which reflect their prominence. Enhanced, architecturally articulated gable treatments and use of walls and/or railings in combination with hedging, rather than fences, are required to provide strong and durable elements which provide interest and definition to the development and this can be made subject to a condition of any grant of planning permission.

Street frontages would otherwise have a mix of terraced, semi detached, detached and flatted properties which would give variety to the streetscape, and where side and rear driveways with detached garages are used this would help to provide further visual permeability and interest and variety.

The proposal is laid out in such a way as to meet the Council's privacy standard that no window of a house should face on to a garden of another house within 9 metres of the

boundary. In respect of directly facing windows, the Council's established standard is that a separation distance of 18 metres should be applied and this is met throughout the development.

The houses and flats as proposed would have brick finishes, mainly red tiled roofs with some grey and a uniform door design. Garages and walls are shown in brick also. Council policy and guidance is that external wall finishes should be predominantly render, though good quality reconstituted stone or stone finishes would also be acceptable.

Therefore, whilst the proposed houses and groupings of them would be generally acceptable, a condition of any planning permission granted should require for approval of detailed plans of wall, roof and door finishes be submitted, including for a varied mix of colours to provide contrast and interest across the development. Given the prominence and scale of the site, the colours to be used should be a range of muted shades.

The proposed pumping station and sub station at the northeast of the site would be in a prominent position in the open space of the development and therefore it would be prudent to require by condition that the landscaping of the development to take account of this and mitigate the impact of those installations.

The central open spaces of the development and those on the northern and southern parts of the site allow for open space access from all parts of the site. Along the northern boundary there are two railway underpasses which allow for pedestrian and cycle access to the south of Musselburgh, one to the Monktonhall area and the other to Musselburgh Railway Station, Stoneyhill and Queen Margaret University and on through existing path networks. There is also an underpass at the western corner of the site, under the A1, which allows for access to another part of the MH1 allocation where it will link with Old Craighall. The paths to the rail underpasses and through the development would form part of the Segregated Active Travel Corridor required by the Council's Local Transport Strategy and Proposal T3 of the adopted ELLDP2018. All of these underpasses require to be upgraded to an appropriate standard, which can be required as a condition of any grant of planning permission.

The Council's Landscape Officer advises that the site is constrained by the high embankments of the A1 to the south and railways to the north and west as well as by the B6451 to the east, with all of these boundaries having dense tree planting which help to provide a green setting for the site and link it to the Edinburgh Green Belt and River Esk landscape character area to the east. She further advises that this is a major entrance to Musselburgh and the development of this site affords the opportunity to create a gateway to Musselburgh as an entrance feature for both the town and the site. She advises further that this could comprise open space and tree planting with feature walling and that the proposed houses and should be set back from the main road at this entrance point to the town.

She supports the design proposals to create tree lined main streets with large verges to one side of the road, though notes that services must not be located within those verges, but should run either within the roadway or the footway on the opposite side of the road. Further, she supports the use of hedgerows to delineate front boundaries of properties.

The Landscape Officer generally supports the layout with the central green park across the north-western area of the site, incorporating the existing culvert including its partial opening as this would introduce water into as a feature of the site. She advises that large species specimen trees should be introduced in the large central open spaces to create features at nodal points and break up the general roofscape of the layout when viewed

from elevated locations of the A1 and railway. She further advises that tree planting should be kept generally to communal areas and not private front gardens where maintenance and retention become issues.

Overall the Landscape Officer welcomes the applicant's changes to the layout and design of the proposal, which take on board early comments voicing concerns of rear gardens facing onto the steep embankment of the A1 to the south of the site by orientating all houses along this boundary to face the embankment and moving them further from the embankment. This reduces issues over noise and appears to remove the requirement for any acoustic barrier to the southern edge of the site, thereby addressing visual impact concerns over the design of this.

She advises that the applicant has also addressed this being a main entrance into Musselburgh and the requirement to create a development suitable as a gateway to the town. The main site entrance has been revised to now be taken off the existing roundabout (or an upgraded version of it) and have proposed flats to both sides of this entrance.

Other more minor access roads and pedestrian/cycle paths have been proposed from the B6415 helping to make the frontage more active along this route into Musselburgh. The applicant has also proposed to open the culvert across the northwest of the site. The depth of landscaping has been extended to the northern site boundary.

Design changes have been made to Plot 1 of the proposals to address the Landscape Officer's concern at the first view of the development from the Musselburgh side along the B6415 being a blank gable and rear wall of a double garage. The garage of the house has been moved to the rear of the plot and the house denoted as having an enhanced gable, to give a more articulated view on approach from the north. A temporary sales cabin is now shown where the garage would be and it would be prudent to use a condition of a grant of planning permission that the cabin be removed when no longer required.

The Landscape Officer also notes that it is unclear what will happen adjacent to the open space to the north of the northmost road access where the site meets the railway as this area is not included on a levels drawing. She further advises that at the northeast corner of the site adjacent to the railway the existing field and field hedgerow/scrub boundary is approximately 3m higher than the road. In respect of this she advises that the proposed site levels show the house at plot 1 set 2m lower than the existing ground level and the access road tying into the existing road levels. She therefore assumes this will require removal of the existing hedge/scrub boundary along the full length of the site boundary south from plot 1 with the B6415 to accommodate the changing levels. She therefore requires that further detailed plans of this area and how it is to be treated be submitted for approval. These details can be provided in the site setting out details required as a standard condition of a grant of planning permission for a development of this type.

The Landscape Officer considers that the redesigned layout would lead to a compact development within the southern area of the site with, in this part of it, with limited open space between the houses other than the wide verges along the roads, and that no open space has been provided for the flatted block plots at the south of the site. In this she is not clear that the development conforms with the landscape and visual assessment submitted with the application, which states that the Masterplan for the whole site would include a series of green links throughout the development to break up built form when viewed from a distance or from a raised viewing position. However, in addition to the wide verges referred to by the Landscape Officer, the layout plan shows open space to the side of one of the flatted buildings and in proximity around the southwestern part of

the site, whilst other open space and informal and formal play provision would be located nearby elsewhere in the development and allows for both recreation and an appropriate juxtaposition of built form and open space.

In respect of the flats in the southern corner of the site the Landscape Officer advises that their three storey blank gable would be the first view of the development when passing under the A1 from Old Craighall. She suggests stepping down the block at this edge. An alternative to this would be to ensure that the gable is well designed and architecturally articulated, to give a strong corner edge presenting to those views approaching from the south and to any glimpsed views from the A1. Changes to the size and extent of the two flatted buildings at this point of the frontage also help to address these issues. Pends linking to bin stores serving those flatted blocks have been removed to address a landscape concern at an abrupt drop to single storey from the gables of the flatted blocks.

The Landscape Officer also raises concerns over the proposed materials of the flats and houses of the development, which are largely proposed as being brick. As considered above, the final external material finishes for the development can be the subject of a condition of any grant of planning permission.

The Landscape Officer also advises that the detailed design of the proposed SUDS basin should be designed to read with the amenity open space. She suggests that Sewers for Scotland 3 indicates a more organic shape for basins to avoid regular formal shapes, that providing differing side slope gradients would also help reduce the engineered look of the basin, and that the grasscrete track proposed around the basin can be omitted as per the advice in Sewers for Scotland 3, and access just provided to the inlet and outlet points for maintenance. This would allow for increased planting and an improved setting for the basin as well as shallower side slopes to the basin in places.

The Landscape Officer advises that further detailed landscape plans should be submitted and advises on a number of further detailed points to be addressed in these, including that Network Rail would not support planting of large species trees close to the existing railway line around the northern edge of the site. These detailed requirements can be the subject of a condition of any grant of planning permission.

The Council's Principal Amenity Officer advises that, in the context of its relation to the Masterplan for the whole MH1 allocation, there is reasonable connectivity with the proposed sports pitches and open space on the other areas of the allocation. He also notes that the proposed play space for this development is adjacent to one of the main pedestrian routes to school which is good practice but that the proposed shape of the play area would not afford space for informal ball games by the time an equipped play area was provided. The developer has since proposed providing such space in the northeast part of the site and this is shown on amended plans.

The Principal Amenity Officer is content with the overall amount of open space provided within the development, but does raise some concerns that the housing in the south triangle of the site does not seem to have adequate area of consolidated open space for recreational use, mainly in reference to the flatted buildings proposed on this part of the site. The layout plan shows open space to the side of one of the flatted buildings and in proximity around the southwestern part of the site, whilst other open space and informal and formal play provision would be only some 300 metres from this part of the site.

The Principle Amenity Officer has given consideration to allotment provision and is of the view that it would not be viable to require on site provision due to the relatively small number of plots this would mean. However, he does require that a commuted sum be

paid for future allotment provision arising as a result of the development and for this site this would be a pro-rata contribution of the £18,742.50 required through the Section 75 agreement for any grant of planning permission in principle for application 18/00485/PPM for the entire MH1 site.

From a biodiversity perspective, the Sport, Countryside and Leisure Service advises that any revision to the existing hedgerow landscape along the B6415 road must reflect or enhance the biodiversity value of the area through the use of as much as possible of the existing hedgerow, native species and habitat connectivity design. A concern in relation to long lines of properties backing onto existing peripheral landscaping, including the wooded embankment of the A1 and the railway line and creating a solid barrier to these habitats, effectively trapping in wildlife, has been addressed in the revised layout which allows for greater space and corridors from those areas into the wider site.

In terms of Access Issues, the Sport, Countryside and Leisure Service advises that underpasses and paths through open space should be upgraded to shared use standard to accommodate greater usage and encourage active travel, with particular attention given to the setting and design of these connections to make them inviting and safe places. Additionally, all paths through open space should be to shared-use standard and the existing path from the site through the north west underpass extending to Musselburgh train station be upgraded to a shared-use path.

In respect of the Forth Special Protection Area (SPA) interests and the MH1 site applications, Scottish Natural Heritage (SNH) initially advised that on the basis of the information available it would be unlikely to produce a robust appropriate assessment. However, subsequent to further work carried out by the applicant in respect of the linkage of the site to the SPA, SNH advises that the final version of the supporting 'Newcraighall Habitat Regulations Screening Request' presents a clear case that the site is actually unsuitable as a resource for these bird species. As such SNH confirms that no further assessment of impacts upon the SPA is required, and that an 'appropriate assessment' is not needed.

In all of the above the proposed development, subject to conditions as described, would be acceptable in terms of Policies 1B of the approved South East Scotland Strategic Development Plan (SESplan) and DP1, DP2, DP3, DP4, DP8, DP9, DC10, NH5, NH8, OS3, OS4, OS5, and Proposals MH1, CF1 and T3 of the ELLDP 2018, with the Council's approved Development Briefs Supplementary Planning Guidance, Developer Contributions Framework, Urban Design Standards and with Scottish Planning Policy 2014 and with Scottish Government Policy and guidance Designing Streets and PAN 67.

In respect of Policy SEH2 of the adopted ELLDP 2018 all new buildings, with certain exceptions, must include Low and Zero Carbon Generating Technologies (LZCGT) to meet the energy requirements of Scottish Building Standards, For larger developments, encouragement is given to site-wide LZCGT rather than individual solutions on each separate building. These requirements can be made a condition of any grant of planning permission for the proposals.

The applicant's Planning Statement sets out a commitment to the provision of appropriate broadband connectivity throughout the phases of the development and in this the proposals comply with Policy DCN2 of the adopted ELLDP 2018 and with Scottish Planning Policy 2014.

Transport Scotland raises no objection to the proposals, providing that when combined with development of the other parts of the MH1 allocation there are no more than 1500 residential units in the development as a whole, and that East Lothian Council will secure appropriate and proportionate financial contributions from this site to address the

cumulative impact on the strategic transport network arising from development. This is on the basis as set out in the Council's 2018 Developer Contributions Framework, and will include contributions towards improvements at the Old Craighall, Salter's Road and Bankton junctions with the A1.

Those contributions are assessed as part of the Section 75 requirements for application 18/00485/PPM and as set out below. Therefore Transport Scotland's requirements can be met subject to the conclusion of the Section 75 agreement applying to any grant of planning permission in principle and to this application, should planning permission be granted, and by relevant conditions on those decisions which reflect the required limit on housing unit numbers.

Road Services raise no objection to the proposals in respect of its traffic impacts, parking and road safety matters. It advises that the key consideration for this application site should be that it is accessible by active /sustainable travel modes and in particular shall have direct connections to the new primary school proposed to be located on another part of the MH1 site and that there is an opportunity to provide 2 routes from the application site to the proposed primary school, one on the west side of the B6415 requiring upgrading and widening of the existing footway and a route from the west of the site via the A1 underpass. As regards the wider MH1 site Road Services advise that the Council has been in discussions with the applicant on provision of a pedestrian and cycle network that would optimise connectivity throughout the masterplan site and recommends that this provision be incorporated within this site to the following standards:

- o The Segregated Active Travel Corridor (SATC) should be 4m wide
- o The primary cycle routes should be segregated 3m shared use corridors, and provide a network connecting all entrances to the site (underpasses and roads) with each other and across the site in more-or-less straight lines
- o The secondary cycle routes should be shared use footway (2.5m wide) or on traffic calmed streets where vehicle speeds are physically limited to 10mph

The applicant has proposed to link to the existing core path to the northeast of the site through the northmost of the two railway underpasses and provide the SATC up to the bridge at Musselburgh Station.

The applicant advises that after that the land required for the indicative route is not within their control as it appears to go onto the railway embankment beyond the station car park. The applicant therefore shows that in the shorter term a link could be provided towards Newcraighall via the existing route that runs along the south of the employment land to the west of Queen Margaret University (Cycle path NCN1). This would allow for access to the station, to Stoneyhill and its primary school and to the university campus. A more direct link to Newcraighall and new development there as well as cycle routes at Brunstane in Edinburgh is addressed in the report on application 18/00485/PPM.

In relation to the northern proposed road access to the B6415, Road Services advise that this junction will be the primary means of access to the site through the initial phases of development, up the limit for a single access of 300 units. In order to mitigate the impact of vehicles turning right into the site blocking southbound traffic on the B6415, it recommends that the junction be enhanced by road marking to facilitate right hand turning by traffic coming from Musselburgh. The southern access junction would be via a new arm from the existing or a potentially re-configured B6415/Old Craighall services roundabout junction. To accommodate cumulative impacts of development in the area, the roundabout requires to be enlarged and re-configured. The applicant has confirmed it is content to provide a proportionate developer contribution in respect of this work and

the design of the junction to be implemented by the applicant can be subject to a condition in respect of its detailed design, including that this also be subject to a Road Safety Audit.

Road Services advise that there is currently no bus stop provision close to the site on the B6415 and that proposals should be submitted for consideration, taking into consideration level differences between the B6415 and the adjoining land and road verge and the location of the roundabout near the Old Craighall services as discussed with the applicant's transport consultant.

In respect of the impact of the proposals on the A720 Old Craighall junction/roundabout as outlined in the applicant's submitted Transport Assessment Road Services advise that appropriate developer contributions should be sought as per the Council's Developer Contributions Framework. The assessment of this also forms part of the assessment of impacts of application 18/00485/PPM for planning permission in principle for the MH1 site and as such can be subject to the same Section 75 agreement at the relevant unit rates.

Road Services recommend the use of planning conditions to secure the above considerations and in relation to details such as visibility splays, road widths, dimensions of parking bays, cycle parking requirements and provision of a green travel plan.

The Council's Waste Services raises no objections to the proposed development. It advises that the swept path analysis submitted with the application demonstrates that the site can be safely accessed and egressed by waste service vehicles. Waste Services will require a number of the home occupiers to present waste containers to specific locations within the development and this information has been provided to the applicant.

Network Rail Infrastructure Limited (Network Rail) raises no objection to the proposal subject to a Section 75 agreement, taking account of its recommendations, being concluded prior to consent being granted. The terms of this would be met by the proposals for rail contributions required of application 18/00485/PPM for planning permission in principle for the development of the whole of the MH1 site at the relevant unit rates. Subject to that Section 75 agreement applying to any grant of planning permission of this part of the site and incorporating any triggers for payment relevant to development of this part of the site then the requirements of Policy DEL1 of the adopted East Lothian Local Development Plan 2018 and the Developer Contributions Framework Supplementary Guidance would be met.

All of the above requirements of Transport Scotland, Road Services and Network Rail can be the subject of conditions and developer contributions as appropriate and subject to this the proposals accord with Policies T1, T2, T4, T8, T31 and T32 and Proposals MH1, T3, T15, T17 and T22 of the adopted ELLDP 2018 and with the Council's Developer Contributions Framework.

Network Rail also confirms its requirements for conditions on fencing along its boundaries with the site, that SUDS be located at least 10 metres from the railway boundary, that planting take account of potential leaf fall on the railway line and that a noise impact assessment in respect of impacts of railway noise and mitigation be carried out.

Historic Environment Scotland raises no objection to the proposed development in respect of the Pinkie Battlefield Site, noting it had been consulted through the Local Development Plan process. It considers that the area does not contribute strongly to an understanding of the battlefield landscape such that issues of national significance would



be raised and consequently has no objection to the principle of development in this location. Historic Environment Scotland notes that there is the potential, however, for archaeological remains associated with the battlefield to be affected by the proposed development and refers the Council to its own archaeological advisor for advice on the assessment of impact of the development on such remains.

The Council's Heritage Officer advises that the proposed development area is surrounded by a significant amount of known archaeological remains and that there is therefore the potential for as yet unidentified remains to be impacted upon by the proposals. He therefore recommends a Programme of Works for archaeological investigation of the site to establish if any further work or mitigation requires to be carried out, including a written scheme of investigation and an 8% trenching evaluation.

Subject to this, which can be required by a condition of a grant of planning permission, in respect of the above cultural heritage interests the proposals accord with Policies CH4 and CH5 of the adopted ELLDP 2018, Scottish Planning Policy 2014 and Planning Advice Note 2/2011.

The Council's Economic Development and Strategic Investment Service initially objected to the proposals, in relation to the East Lothian Local Plan 2008 allocation as employment land. Subsequent to the adoption of the ELLDP 2018, the Economic Development and Strategic Investment Service considers that the residential development of this site as part of the overall development of the MH1 allocation, including employment land on two other areas of the allocation, is acceptable.

The Council's Environmental Protection Manager advises on a number of matters in respect of the application. He raises no objection to the proposals, but given the scale and likely duration of development on the site requires that planning conditions be used to control areas of consideration.

In respect of construction phase noise, vibration and dust he advises that any grant of planning permission be subject to a condition requiring a Construction Method Statement, with due reference to the relevant British Standards, for noise, vibration and dust monitoring to prevent any nuisance arising and be acceptable for residential receptors within the vicinity of the construction work.

The Environmental Protection Manager also raises concerns that occupiers of the proposed residential units may have reduced levels of amenity due to existing noise sources, i.e. road traffic noise from A1 to the south and B6415 to the east, rail noise from east coast main line to the north, and commercial noise from the Queen Margaret University Campus to the west of the site. Amendments to the proposals such that the properties closest to the A1 embankment have been reoriented so as to provide mitigation for noise impacts to gardens. He recommends that boundary treatments for properties take account of the Noise and Vibration impact assessment submitted by the applicant and that acoustic glazing be specified to mitigate noise internally.

In respect of concerns that traffic movements associated with the development during the operational phase may impact upon the existing Air Quality Management Area (AQMA) on Musselburgh High Street, the Environmental Protection Manager advises that he has appraised the technical assessment of air quality prepared by REC of May 2018 and submitted in support of the application. He confirms that he is satisfied that the development, including in conjunction with other committed developments in the Musselburgh cluster, will not have a significant impact upon local air quality, in particular on Musselburgh High Street. No exceedences of Air Quality Objectives are predicted to arise when the development becomes operational in 2024. He does recommend that

principles of good practice described in the Environmental Protection Scotland/Royal Town Planning Institute Scotland guidance document "Delivering Cleaner Air for Scotland, January 2017" be incorporated into the design of the development, the provisions of which are generally met by Road Services and Building Standards requirements.

On these matters of noise, air quality and amenity the recommendations of the Environmental Protection Manager can be made conditions of any grant of planning permission in principle, subject to which the proposals comply with Policies RCA1, NH12 and NH13 of the adopted ELLDP 2018.

In respect of the site there is an existing planning permission (ref 13/00211/P and 14/00468/P) for a wind turbine on Queen Margaret University land close to the boundary of the campus with the rail line and the site. This would result in shadow flicker and noise impacts which would be detrimental to the amenity of any properties constructed in Area 2 were both developments to proceed. However, the Council has received a legal undertaking from the University that it will not pursue development under that planning permission, and this binding agreement is sufficient to ensure that this situation would not arise.

In respect of contaminated land issues, the Council's Environmental Protection Officer advises that the site is currently agricultural land but has a history of coal mining associated with it and that there is the possibility that the site may contain localised contamination associated with the former mining activities. He concurs with the findings of the applicant's submitted Desk Study report as carried out by Mason Evans in October 2014 that an intrusive site investigation is warranted. He therefore recommends that a condition be attached to any grant of planning permission to secure a full contamination investigation, a detailed remediation strategy for any risks identified be submitted for approval and subsequently carried out, a validation report submitted for consideration, and measured put in place to deal with any unforeseen issues encountered during remediation works.

He further advises that, given the period of time that has elapsed (nearly 3 years) since the initial gas monitoring of the site was carried out he recommends that further rounds of gas monitoring be carried out on the site, followed by an updated risk assessment to confirm the current gas regime.

In respect of ground conditions, the Coal Authority initially objected to the proposal and maintained its objection in respect of further information submitted. The Coal Authority advises that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of the planning application. Coal Authority records indicate that there are 2 mine entries and that the site is also in an area of likely historic unrecorded underground coal mine workings at shallow depth.

The Coal Authority welcomed the applicant's submitted Report on Site Investigations, however, and whilst the Report confirms the undertaking of intrusive site investigations (the results of which discount the need remedial works for shallow coal mine workings), the Coal Authority maintained concerns over the implications posed by the recorded mine entries within the site.

The Coal Authority now advises that the Report confirms that one of the two shafts shown in records in the southern part of the site has been located, with the remaining shaft likely to be a duplicate. The applicant advises that extensive intrusive investigations

have been carried out to locate the recorded mineshafts with only one found and therefore suggests that the other is a duplicate on records. In the applicant's view this is not uncommon and they would therefore accept a condition on a grant of planning permission requiring further investigation and supervised works in that area, recognising this might require subsequent application to vary the approved design should any second mine entry be located.

The Scottish Environment Protection Agency (SEPA) initially objected to the proposals in respect of flood risk. However, subsequent to the submission of additional flood risk information including a full Flood Risk Assessment, and discussions between SEPA and the applicant's consultants, SEPA has withdrawn its objection, subject to any permission in principle being granted, planning conditions in respect of the following matters should be attached:

\* Before any development can commence on site, all flood risk assessment (FRA) documents submitted shall be consolidated to include all information provided throughout the consultation, for the approval of the planning authority in consultation with SEPA.

\* Before any development commences on each phase of the site, the phases being land to south of QMU, the land to the north of QMU, the land adjacent to Old Craighall and the land in the Millerhill rail loop, a detailed site layout for that phase shall be provided which clearly demonstrates that no development or landraising is proposed within the agreed functional floodplain extents as determined in the most recent masterplan (01 March 2019).

\* Finished floor levels for properties are set a minimum of 600mm above the predicted flood level.

Subject to the use of such conditions, SEPA is satisfied that the proposals would not increase the risk of flooding on site or to other sites, in accordance with Policies NH10 and NH11 of the adopted ELLDP 2018.

The Council's Team Manager for Structures, Flooding and Street Lighting has considered the applicant's Flood Risk Appraisal and raises no objection to the proposals.

Scottish Water has not commented on the proposal, though it did comment on the application for planning permission in principle for the MH1 site as a whole and raises no objection.

Policy DEL1 of the adopted East Lothian Local Development Plan 2018 stipulates that new development will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This includes funding necessary school capacity.

In respect of Education provision, the Council's Depute Chief Executive (Resources and People Services) advises on provision for the MH1 site of which this application forms a part. He informs that the overall MH1 application site is located within the school catchment area of the new Craighall Primary School and Musselburgh Secondary Education zone as set out in Appendix 1 of the adopted ELLDP 2018.

The allocation of the MH1 site for mixed use development in the adopted ELLDP 2018 includes a requirement for the new Craighall Primary School. The site of the proposed school lies on land in the ownership of the applicant, who is willing to transfer the land at nil value to ensure the delivery of the new school.

The Depute Chief Executive (Resources and People Services) advises that he would not object to the proposals in respect of nursery and primary school provision, subject to the transfer of the land for the primary school at nil value and a financial contribution to the Council of £8801 per housing unit for the costs of primary and nursery provision by way of the new Craighall Primary School.

The Depute Chief Executive (Resources and People Services) also informs that some development can take place in advance of completion of the new Craighall Primary School, enabled by temporary Education capacity for pupils from the development provided by means of a temporary 'hosting' arrangement at Stoneyhill Primary School for a limited period of 36 months. He advises that, in respect of the applicant's proposed phasing for housing completions, there will be sufficient capacity within Stoneyhill Primary School to accommodate the pupils arising from this development until the end of the academic year 2022/2023 - i.e. until June 2023. In respect of this it would be prudent to use a planning condition requiring that completions on the site do not exceed those stated by the developer.

In respect of secondary education provision the Depute Chief Executive (Resources and People Services) advises that secondary education capacity can be provided for the proposed development subject to a financial contribution to the Council of £4282 per unit towards additional school accommodation in the Musselburgh Secondary Education zone and a contribution towards required secondary school land of £419 per unit.

The transfer of the required land and the required financial contributions of a total of £13,502 per unit for Craighall Primary School and the Musselburgh Secondary zone 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 DEL1 and Proposals MH1 and ED1 of the adopted East Lothian Local Development Plan 2018. In respect of this, the application can be made subject to the same Section 75 agreement as required for any grant of planning permission in principle for application 18/00485/PPM.

In accordance with Policy HOU3 of the adopted East Lothian Local Development Plan 2018 a grant of planning permission in principle would require to be subject to provision of 25% of all housing units to be developed as affordable housing i.e. 118 units of the 473 proposed. They is proposed to be delivered on site as agreed with the Council's Housing service. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant confirms they are willing to do, the proposal would be consistent with Policy HOU3 of the adopted East Lothian Local Development Plan 2018. Again, this can be subject to the same Section 75 agreement as required for any grant of planning permission in principle for application 18/00485/PPM.

## RECOMMENDATION

It is recommended that planning permission be granted subject to:

2. The undernoted conditions.

3. 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 for 473 units of the 1500 residential unit development of the MH1 site contribution pro-rata to the contribution of £942,988 in respect of the provision of transport infrastructure interventions as detailed in the adopted East Lothian Local Development Plan 2018;

(ii) Either provision in kind of three community sports pitches and a six changing room facility, to be transferred to the Council at no cost or a financial contribution to the Council for 473 units of the 1500 residential unit development of the MH1 site contribution pro-rata to that contribution of £1,515,000 for provision of the same facilities;

(iii) A financial contribution to the Council for 473 units of the 1500 residential unit development of the MH1 site contribution pro-rata to the contributions of £13,201,500 towards the provision of the new Craighall Primary School, and £6,423,000 and £628,500 towards the provision of secondary education capacity and land in Musselburgh;

(iv) A financial contribution for 473 units of the 1500 residential unit development of the MH1 site contribution pro-rata to the £18,742.50 required for allotment provision.

(iv) A financial contribution to the Council for 473 units of the 1500 residential unit development of the MH1 site contribution pro-rata to the £23,590 towards the upgrading of the B6415 roundabout; and

(iv) The provision of 118 affordable housing units within the application site.

4. 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 an insufficient provision of transport infrastructure, community sports pitches and related changing facilities, a lack of sufficient nursery, primary and secondary school capacity, and the lack of provision of affordable housing contrary to Policies DEL1 and HOU3 of the adopted East Lothian Local Development Plan 2018.

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

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

a) the position within the application site of all elements of the proposed development and position of adjoining land and buildings;

b) finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing;

c) the ridge heights of the proposed houses and flatted buildings; shown in relation to the finished ground and floor levels on the site; and

d) open spaces adjacent to the opened culvert, including levels between these and the slope of the sides of the culvert.

Reason:

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

- 2 No development shall take place on the proposed site until the applicant has undertaken and reported upon a programme of archaeological work (evaluation) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority.

Reason:

In the interests of the cultural heritage of the area.

- 3 Unless otherwise approved in writing by the Planning Authority, no development shall take place on site unless and until a further scheme of intrusive investigation in respect of mine entries has been submitted to and approved by the Coal Authority. Any design changes required to the scheme of development shall have been approved in advance of development of that part of the site.

Reason:

In the interests of the safety of the development and its occupants.

- 4 No development shall take place on site unless and until:
- a) a comprehensive contaminated land investigation has been carried out and a report submitted to and approved by the Planning Authority. The report shall include a site-specific risk assessment of all relevant pollutant linkages;
  - b) Where the risk assessment identifies any unacceptable risk or risks, a detailed remediation strategy shall be submitted to the Planning Authority for approval. Prior to receipt of approval of the remediation strategy by the Planning Authority no works, other than investigative works, shall be carried out on the site;
  - c) Remediation of the site has been carried out in accordance with the approved remediation plan. Any amendments to the approved remediation plan shall not be implemented unless approved by the Planning Authority; and
  - d) On completion of the remediation works and prior to the site being occupied, a validation report has been submitted to the Planning Authority confirming that the works have been carried out in accordance with the remediation plan.

The presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority. At this stage, further investigations may have to be carried out to determine if any additional remedial measures are required.

Reason:

In the interests of securing the removal of any contamination on the site and if the safety of future occupants of the development.

- 5 Prior to the start of construction works on site, additional gas monitoring should be carried out over a minimum period of 2 months. Following this period of monitoring, a gas risk assessment shall be submitted for the consideration and written approval of the Planning Authority. The risk assessment shall detail any appropriate gas prevention methods that may be required to ensure the site is suitable for use. If gas prevention measures are to be installed then these works should be suitably validated to the satisfaction of the Planning Authority.

Reason:

In the interests of the safety of future occupants of the site.

- 6 Before any development commences on site, all flood risk assessment (FRA) documents submitted shall be consolidated to include all information provided throughout the consultation, for the approval of the planning authority in consultation with the Scottish Environment Protection Agency and thereafter all phases of development shall be carried out in accordance with the consolidated flood risk assessment, unless otherwise agreed in writing by the Planning Authority in consultation with the Scottish Environment Protection Agency.

Reason:

To ensure that all agreed information shall be carried forward within the approved FRA and that site construction shall be carried out in accordance with the conclusions of the FRA about parts of the site at flood risk, which includes the preservation of flood plain and flow pathways in perpetuity.

- 7 Prior to the commencement of development details of the site and SUDS provision shall be submitted for the written approval of the Planning Authority in consultation with the Scottish Environment Protection Agency. The details shall:

- a) clearly demonstrate that no development or landraising is proposed within the agreed functional floodplain extents;
- b) include details of SUDS provision and any required flood risk attenuation measures;
- c) provide that finished floor levels for properties shall be set a minimum of 600mm above the predicted flood level; and
- d) provide that the Sustainable Drainage Scheme not be sited within 10 metres of the railway boundary and should be designed with long term maintenance plans which meet the needs of the development.

Thereafter the development so approved shall be carried out only in full accordance with such approved details.

Reason:

In the interests of flood risk management, management of the water environment and to protect the stability of the adjacent railway and the safety of the rail network.

- 8 Boundary treatments as shown on the approved Development Layout Drawing CR DL001 Rev J are not approved. Prior to the commencement of development, a detailed boundary treatment plan for the whole of the development shall be submitted to and approved in writing by the Planning Authority. The plan so approved shall delineate the boundaries of the development site and the front, rear and side boundary treatments of each residential plot with wall, hedge or railing boundary treatments where those boundaries face streets or public spaces and with other appropriate boundary treatments between individual properties where not facing public spaces and to include for screening of private driveways and shall take account of the findings of the Noise and Vibration Impact Assessment docketed to this planning permission. Details of materials and finishes shall be provided.

Thereafter all boundary treatments so approved shall be implemented prior to the occupation of the relevant plot.

Reason:

In the interests of the amenity of future residents of the development and of the quality of design of the development and the visual amenity of the area.

- 9 Prior to the commencement of construction of the each of the flatted buildings of the development as shown on the Layout Plan DL001 Revision J as hereby approved, details showing enhancement by additional windows, architectural features and materials of the gable elevations of each block shall be submitted to and approved in writing by the Planning Authority and thereafter the flatted buildings shall be constructed in accordance with the details so approved.

Reason:

In the interests of the quality of design of the development and the visual amenity of the area.

- 10 Prior to the construction of those houses or flats that have gables facing onto streets, open space or parking on Development Layout Plan DL001 Revision J hereby approved, details showing enhancement by additional windows, architectural features and materials of gable elevations of those flats or houses shall have been submitted to and approved in writing by the Planning Authority and thereafter those houses and flats shall be constructed in accordance with the details so approved.

Reason:

In the interests of the quality of design of the development and the visual amenity of the area.

- 11 Notwithstanding what is shown on the approved layout and elevation drawings, the use of brick as a predominant external finish is not approved and, prior to the construction of any building on site, a coordinated scheme of external materials and colour finishes of external walls and roofs of all buildings and walls shall have been submitted to and approved in writing by the Planning Authority. The scheme so approved shall respect the layout of the development and shall promote render, reconstituted stone, natural stone or appropriate contemporary cladding as the predominant finish to the walls of the residential units. This shall include for a variety of render or cladding colours where those finishes are to be used. Thereafter, unless otherwise approved in writing by the Planning Authority, the development shall be carried out in accordance with the scheme of external materials and colour finishes so approved.

Reason:

In the interests of the quality of design of the development and the visual amenity of the area.

- 12 Unless otherwise approved in writing by the Planning Authority the temporary sales cabin shown on Plot 1 of Development Layout Plan DL001 Revision J shall be removed prior to the occupation of the last residential unit of the development and the area of ground landscaped within 6 months of the removal of the cabin, to details to be agreed in advance with the Planning Authority.

Reason:

To ensure the removal of the temporary sales cabin, in the interests of the residential amenity of the area.

- 13 All houses and flats shall include Low and Zero Carbon Generating Technologies (LZCGT) to meet the energy requirements of Scottish Building Standards, Compliance with this requirement shall be demonstrated through obtaining an 'active' sustainability label through Building Standards and submission of calculations indicating the SAP Dwelling Emissions Rate (DER) or SBEM Buildings Emissions Rate (BER) with and without the use of the LZCGT. LZCGT shall reduce the DER/BER by at least 10%, rising to at least 15% for applications validated on or after 1 April 2019. For larger developments, encouragement is given to site-wide LZCGT rather than individual solutions on each separate building.

Reason:

In the interests of sustainable development and compliance with Policy SEH2 of the adopted East Lothian Local Development Plan 2018.

- 14 A detailed scheme of landscaping, including details of its implementation through phases of the development, shall be submitted to and approved in writing by the Planning Authority, prior to commencement of works on site. The scheme shall provide details of:

- a) the height and slopes of any mounding on or re-contouring of the site including SUDS basin/ponds details;
- b) tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting;
- c) non-thorn shrub species located adjacent to pedestrian areas;
- d) 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;
- e) tree planting located in communal areas and not in private gardens;
- f) the southeast boundary levels and planting, including sections showing the levels between frontage plots and the site frontage, maximising the extent of hedgerow along the frontage to be retained and proposals for native species replacement planting as mitigation;
- g) landscaping and planting around the pumping station and sub station denoted in the open space in the eastern corner and sub station adjacent to the equipped play area in the centre of the site on the approved Development Layout Plan DL001 Revision G mitigate their prominent positions;
- h) the proposed SUDS basin redesigned with a more organic shape, differing side slope gradients to reduce the engineered look of the basin, omission of the grasscrete track around the basin as per advice in Sewers for Scotland 3, and with access provided only to the inlet and outlet points for maintenance and increased planting;
- i) The landscape space to the north boundary of the site with the freight rail line combining tree planting in terms of species and positioning acceptable to Network Rail with understorey shrub planting, informal paths and areas for natural play along its length. Planting along the security fence should be kept to hedgerow thicket planting;
- j) The open space to the south-western boundary combining tree planting of formal small species trees with understorey shrub planting, informal paths and areas for natural play along its length;
- k) Where hedge planting is used for front garden boundaries, beech or hornbeam hedge with return around corner plots and to the front boundaries and returns of the flatted blocks;
- l) residential street and parking area tree planting as small species to include Sorbus aucuparia varieties, small Prunus 'Sunset Boulevard' and ornamental Pear, with placement to avoid overshadowing gardens;
- m) large species specimen trees in the main open spaces to create features at nodal points, placed in small numbers within large open spaces to include species such as lime, horse chestnut, oaks, evergreen oak, sweet chestnut, maples and with feature willows close to the watercourse;
- n) Fastigate limes to create a formal avenue frontage;
- o) primary routes within the site defined with formal planting such as fastigate hornbeam or fastigate pears; and
- p) Feature corner spaces containing feature trees such as multi-stemmed birches.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the details of implantation so approved. 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:

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 and to control the impact of leaf fall on the operational railway.

- 15 A full management plan for development and long-term maintenance of all landscape elements on the site shall be submitted to and approved in writing by the Planning Authority, prior to the occupation of any residential unit on site.

The maintenance of all communal landscape areas, and any hedges to private front gardens, as approved in terms of condition 8 above, shall be adopted and maintained by a Factor or a Residents Association in accordance with details to be submitted to and approved by the Planning Authority prior to the occupation of any residential units hereby approved.

Reason:

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

- 16 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (Scotland) Order 1997 (as amended), other than as shown on the drawings docketed to this planning permission no substation, pumping station, gas governor or other above ground utility infrastructure shall be installed on site without the formal approval of the Planning Authority.

Reason:

In the interests of the visual amenity of the area.

- 17 Unless otherwise agreed in writing by the Planning Authority, prior to the occupation of any residential unit of the development, the Segregated Active Travel Corridor route within the site, the surfaces of the underpasses along the northern boundary which accommodate that route and the length of the Active Travel Corridor running from the site to Queen Margaret University and the pathway route shown through the two underpasses and along the northeast boundary to the B6415 shall have been completed to an adoptable standard and brought into use and adoptable pathway connections from completed properties to those routes shall be available at all times.

Reason:

To ensure that pedestrian and cycle routes are available to occupants of the development, including provision for safe routes to school, connection with Musselburgh Rail Station, Musselburgh town centre and cycle path NCN1.

- 18 A Construction Method Statement (CMS) or Construction Environmental Management Plan (CEMP) shall be submitted for approval prior to the commencement of development. The CMS or CEMP shall outline measures to be taken to minimise impacts upon existing and proposed sensitive receptors due to noise and dust. These shall include compliance with:

"Best Practice Guidance" as recommended BS5228-1: 2009 + A1:2014 "Code of practice for noise and vibration control on construction and open sites - Part 1:Noise";

"Best Practice Guidance" as recommended BS5228-2: 2009 + A1:2014 "Code of practice for noise and vibration control on construction and open sites - Part2: Vibration"; and

Section 8 of the Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction (2014) with regards to practicable control measures for reducing visible dust emissions affecting properties beyond the site boundary.

Reason:

In the interests of the residential amenity of the area.

- 19 Where not already provided the developer shall provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal should be made. Details of the proposed fencing shall be submitted to the Planning Authority for approval before development is commenced and the development shall be carried out only in full accordance with such approved details.

Reasons:

In the interests of public safety and the protection of Network Rail infrastructure.

- 20 Prior to the opening of Craighall Primary School, the following shall be provided to details and specifications to be agreed in advance with the Planning Authority:
- a) an up to 4.0 metre wide footpath/cyclepath with street lighting, from the western part of the application site, under the A1 underpass to the closest boundary access gate of the primary school site;
  - b) an upgraded to up to 3.5 metre wide where space allows (2.0 metres minimum) shared used footway/cyclepath on the west side of B6415 between the north access junction of the development site to a point 50 metres south of the A1 overbridge;

Reason:

To ensure that pedestrian and cycle routes are available to occupants of the development, including provision for safe routes to school and connection with Old Craighall.

- 21 Prior to it being brought into use for occupants of the development, the detailed design of the north access junction to the development site from the B6415 public road shall be completed in accordance with the following, details of which shall be submitted for the prior written approval of the Planning Authority:

a) Provision and maintenance of a visibility splay of 4.5 metres by 70 metres on each side of the proposed access such that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway level within that area;

b) Unless otherwise agreed in writing by the Planning Authority, the junction the B6415 formed with turning from that road enhanced by a road marking scheme at the junction in the form of ladder marking 50 metres on either side of the junction, with a gap in the ladder at the junction. Lane widths shall be 3.0 metres inbound/outbound with 1.5m in the middle;

c) Provision of a Road Safety Audit completed through Stages 1 to 4, preliminary design to post-construction.

Reason:

In the interests of road safety

- 22 Prior to the occupation of the 301st residential unit, the south access of the development site shall be completed and brought into use. This shall access the roundabout junction with the B6415/A1 link road and exit from Old Craighall services and the detailed design of the junction shall be agreed with the Planning Authority in accordance with the re-configured design of the roundabout to accommodate the development.

Reason:

In the interests of traffic capacity management and road safety.

- 23 Unless otherwise agreed in writing with the Planning Authority, the implementation of the development shall accord with the following, subject to details, including timescales for implementation, to be submitted for the prior approval of the Planning Authority:

a) East and westbound bus stops with bus shelters shall be provided, adjacent/opposite to the site frontage, on the B6415 to serve the site. These shall be located and designed to provide safe access to public transport routes on the B6415. Works to provide safe pedestrian crossing points adjacent to either/both bus stops shall also be provided. Details shall be submitted for approval;

b) Street lighting shall be provided/upgraded over the full extent of the proposed site frontage on the B6415 from the ECML overbridge to the south of the A1 link road / service area roundabout;

c) The internal access road and parking areas shall be laid out as shown on Development Layout Plan DL001 Revision G;

d) All access roads shall conform to ELC Standards for Development Roads in relation to road layout and construction, footways & footpaths, parking layout and number, street lighting and traffic calming measures. This shall also comply with ELC Design Standards for New Housing Areas;

- e) The Segregated Active Travel Corridor to be provided on the northern part of the site and between the site and Whitehill Farm Road/Queen Margaret University shall be a minimum 4.0 metre wide footpath/cyclepath with street lighting and surfacing to a specification to be agreed in advance with the Planning Authority;
- f) Road surfaces shall be blocks (permeable or non-permeable) on straight sections of road and corners shall be constructed with asphalt finish with coloured chip or with thermoplastic screed (i.e. 'Imprint' or similar);
- g) Parking for the residential elements of the development shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads - Part 5 Parking Standards;
- h) Vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;
- i) 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;
- j) 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;
- k) Cycle parking for flats shall be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed;
- l) Wheel washing facilities must be provided and maintained in working order during the period of construction of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres;
- m) A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including routes to/from site) and shall include hours of construction work. Temporary measures shall be put in place to control surface water drainage during the construction works. Routes for construction traffic shall also be included;
- n) A Green Travel Plan to minimise private car trips and to encourage use of alternative modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority prior to the housing being occupied and /or the business units coming into operation;
- o) All courtyard parking areas, other than those with bin stores accessible from the roadside shall be accessible to Refuse Collection Vehicles, constructed to adoptable standard and with a T-shaped turning area of 23.5 metres length if that is where bin presentation points are located;
- p) Roadways and roadway speed tables shall be designed in detail to ensure footways connect or can cross at-grade on each speed table with road and footway levels designed with low kerb upstand and with street trees in refuge areas, to details to be agreed by the Planning Authority;
- q) The use of stone chippings for private driveways is not approved. Driveways shall be hard surfaced with permeable pavements or a surface to be agreed in writing with the Planning Authority; and
- r) A detailed plan of street trees and street lighting to reduce forward visibility and traffic speeds within the development,

All parking spaces, roads and footpaths/cycleways shown in the docketed drawings shall be constructed in accordance with the docketed drawings and foregoing conditions of this planning permission and shall be finished and available for use in accordance with a phasing plan for completion of residential units on the site, to be submitted for the written approval of the Planning Authority prior to the occupation of any residential unit within the development.

Reason:

To ensure the satisfactory completion of the road network in the interest of visual amenity and

highway safety.

- 24 The equipped play area and informal open spaces to be provided within the site in the positions shown for them in docketed drawing Development Layout Plan DL001 Revision J shall be formed, equipped and made available for use in accordance with details, including timescales for provision, to be submitted and approved by the Planning Authority and thereafter the play area informal open spaces shall be made available for use equipped, surfaced and with boundary treatments as relevant in accordance with the details so approved.

Reason:

To ensure the provision of an appropriate equipped play area and open spaces, in the interests of the amenity of the development.

- 25 Unless otherwise agreed in writing by the Planning Authority, the following measures shall be implemented for the relevant residential units prior to the occupation of that unit:

a) Acoustic Barriers of 1.8 – 2.4m height shall be provided as detailed by thick black lines in Figure 4 of Appendix 3 of REC's Technical Report Ref: AC105702-1R3 entitled "Noise & Vibration impact assessment, Newcraighall, East Lothian" of 6th December 2018. The barriers shall be either of brick wall construction or timber fence that has a minimum mass of 5kgm<sup>-2</sup>, is close boarded, sealed at the base and be free from holes. The height of the barrier is plot specific. The precise mitigation measures required for each individual plot shall be as described in Table A4 Mitigation Strategy of REC's Technical Report of 06th December 2018; and

b) Upgraded glazing and/or ventilation units shall be provided to habitable rooms (living rooms/bedrooms) of all properties as described in Table A4 Mitigation Strategy of REC's Technical Report of 06th December 2018.

Reason:

In order to ensure compliance with daytime garden noise levels as low as practicable due to noise associated with road traffic on the A1 and B6415 and in order to ensure compliance with daytime and night-time internal noise levels specified in Table 4 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings" due to noise from road and rail traffic as described in Table A4 Mitigation Strategy of REC's Technical Report of 06th December 2018.

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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 26 March 2019  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

4

---

Application No. **18/00764/PM**

Proposal                      Erection of care home building (Class 8), hotel building (Class 7) and associated works

Location                     **7 Tantallon Road**  
**North Berwick**  
**East Lothian**  
**EH39 5NF**

Applicant                    Frontier Estates (Berwick) Limited

Per                            Yeoman McAllister Architects

RECOMMENDATION         Consent Granted

#### PLANNING ASSESSMENT

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: 18/00001/PAN) and thus of community consultation prior to this application for planning permission being made to the Council.

As an outcome of that, and as a statutory requirement for major development type applications, a pre-application consultation report is submitted with this application. The report informs that some 80 people attended the pre-application public exhibition, which was held at the Glen Golf Club, North Berwick on the 20th February 2018 between 1.00pm and 7.00pm, and that fifty-four feedback questionnaires were completed and returned (a return of approximately 68%). A finding of the returned questionnaires is that ninety percent of attendees of the pre-application public exhibition live in the local area or within 1km of the site. The attendees of the pre-application public exhibition raised a number of issues regarding the proposals. Based on the responses received in the

feedback questionnaires, fifty-two percent of responders were supportive of the proposals in principle, thirty-seven percent were unsure or undecided, and eleven percent were unsupportive of the proposals. There were mixed responses to the proposed hotel and care home uses, with some attendees acknowledging that there may be demand for both the hotel and care home within North Berwick, while others questioned the need for more hotel accommodation and raised concerns about the hotel falling into disrepair/disuse, and that there may be an oversupply of this type of care home accommodation within the area. Some responders raised concerns about the effects that the proposed care home would have on current health care provisions in the area. 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.

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 16 February 2018, the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed hotel and care home development to be the subject of an EIA.

The application relates to an area of land and buildings, measuring some 0.99 of a hectare, at 7 Tantallon Road, North Berwick, which is located on the south side of Tantallon Road (classified A198 public road) on the main eastern approach into North Berwick. It lies approximately 1km from North Berwick town centre.

The site is allocated as employment land and as such is covered by Policy EMP1 (Business and Employment Locations) of the adopted East Lothian Local Development Plan 2018. The present authorised uses of the site are as a commercial garage/workshop and car sales showroom, and a Blacksmiths and Steel Fabricators.

The buildings on the site are clustered on the northern half of the site. They comprise single and two storey commercial and industrial buildings with a variety of flat and shallow pitched roof forms. The finishes of their external walls include brick, painted brick and render. Their pitched roofs are clad with corrugated roofing materials, including profiled metal sheets. The buildings containing the garage/workshop and car sales showroom front onto Tantallon Road over a parking forecourt. To the south of the building is an unmade parking area. Beyond that parking area, the southern third of the site is undeveloped and is presently surfaced with rough grass.

The application site is bounded to the north by the A198 classified public road (known as Tantallon Road). Further to the north on the opposite side of Tantallon Road, are residential properties of Ben Sayers Park and the wooded area of North Berwick Glen. The site is bounded to the east in part by Mill Walk Business Park comprising of fourteen business units, and in part by the service and delivery yard for a supermarket (Tesco). The buildings of Mill Walk Business Park are single and two storey in height. Further to the east, beyond the buildings of Mill Walk Business Park, are the two storey houses of 1 to 4 Horse Crook and their associated garden ground. To the south, the site is bounded by land that is allocated as part of a larger site for mixed use development, including



housing and Class 4 business units, by Proposal NK4 (Land at Tantallon Road, North Berwick) of the adopted East Lothian Local Development Plan 2018. The land immediately to the south of the application site is approved to be developed for the erection of two storey houses, through the grant of planning permissions 15/00670/PPM, 16/00921/AMM and 18/01020/P. To the west the site is bounded in part the residential house and garden of Cemetery Lodge, by North Berwick Cemetery, including the extension to the Cemetery, and by a Council Amenity Services Depot.

The Scheduled Ancient Monument and Site of Special Scientific Interest of North Berwick Law is located some 640 metres away to the west. North Berwick Glen to the north of the application site on the opposite side of Tantallon Road is an Ancient Woodland and Priority Habitat area of some local biodiversity and conservation interest.

The application site is outwith North Berwick Conservation Area but is close to the southern edge of it which extends to include North Berwick Glen on the opposite side of Tantallon Road.

The site measures some 0.99 of a hectare in area. The land of the northern half of the site is generally level. The land of the southern half of the site slopes gently upwards in a southerly direction. The north roadside boundary of the site is enclosed by a 1 metre high natural rubble stone wall with a "sheep's heid" cope. A 1.8 metres high natural rubble stone wall with a rounded cope encloses the west boundary of the site with the adjacent Cemetery. A 1.3 metres high metal post and wire fence and beech hedging encloses the west boundary of the site with the extension to the Cemetery. The remaining length of the west boundary of the site with the Council Amenity Services Depot is enclosed by 2 metres high metal palisade fencing. A 1.8 metres high timber fence encloses the east boundary of the application site with Mill Walk Business Park. The remaining length of the east boundary of the site with the supermarket service and delivery yard is enclosed by 2 metres (minimum) high metal and mesh fencing. There is no means of enclosure of the south boundary of the site.

There is row of fourteen small trees along the northern (roadside) boundary of the site in positions to the south of the roadside boundary wall. A further thirteen larger trees form a row along the west boundary of the site, immediately to the east of the west boundary wall and a further large tree is located roughly halfway along the east boundary of the site. A short length of beech hedgerow is located to the east of an existing building of the northern part of the site, between it and the internal access road of the site. An electricity substation is located on the northern part of the site adjacent to the west boundary and immediately to the north of the row of trees on that western boundary.

Planning permission is sought for the erection on the application site of a care home (Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1997) and a hotel (Class 7 of the Town and Country Planning (Use Classes) (Scotland) Order 1997) and for associated works.

The proposed hotel would be contained within a three storey building and would comprise 65 bedrooms, a bar/restaurant with capacity for 22 covers (minimum) and associated office and service facilities. The proposed hotel would have an irregular shaped elongated footprint. Its front (north) elevation would face towards Tantallon Road and at its closest, would be positioned some 12 metres away from the north (roadside) boundary of the site. It would be of a contemporary flat roofed architectural form with a maximum roof height of some 11 metres above ground level. Its external walls would be finished with a combination of a smooth white coloured render, timber effect composite wall cladding panels and 'Trespa Meteon' (or equal approved) grey coloured wall cladding panels. The roof of the proposed hotel would be finished with

'Protan' (or equal approved) roofing membrane in a green colour.

The proposed care home would be contained within a three storey building and would comprise 70 bedrooms, shared communal facilities in the form of day rooms, a library, a dining room and a salon/treatment room, and associated office and service facilities. The proposed care home would have an irregular shaped elongated footprint with its front elevation facing northwards. It would be of a contemporary architectural form and design with a maximum roof ridge height of some 13 metres above ground level. Its roof would have the appearance of a dual pitched roof however it would have a flat area along its central length. The external walls of the proposed care home would be finished with a combination of smooth white coloured render, timber effect composite wall cladding panels and 'Trespa Meteor' (or equal approved) anthracite grey coloured wall cladding panels. The roof of the proposed care home would be clad with grey coloured concrete tiles.

The proposed associated works would comprise the formation of a new vehicular access and access road, parking and turning areas, footpaths, patio areas, bicycle storage areas, refuse storage areas, the erection of fencing, and the provision of soft landscaping.

Vehicular access to the care home would be taken from Tantallon Road and the existing eastern vehicular access would be amended to create an appropriate vehicular access for the proposed development. A new access road would be positioned on the eastern side of the site to the east of the proposed hotel and part of the proposed care home buildings. Parking spaces for 65 cars would be provided for the proposed hotel to the east, west and south sides of that proposed building, including an element of parking that would be formed at ground floor level below part of the first floor of that proposed building. Parking spaces for 25 cars would be provided for the proposed care home in positions to the east side of that proposed building. Communal garden areas for the occupiers of the proposed care home would be located to the east, south and west sides of that proposed building. A service yard and a secure cycle store would be located to the north of the proposed care home building.

Landscaping of the site would include the removal of the fourteen trees along the north (roadside) boundary of the site, four trees of the row of thirteen trees of the west boundary, and the short length of beech hedging. The planting of a replacement trees would be carried out along the north (roadside) boundary of the site, the east, west and south boundaries of the site and between the two buildings on the site and on the northern part of the site.

The existing buildings on the site would be demolished and removed to facilitate the proposed development.

The following supporting statements have been submitted with the application:

- Planning Statement;
- Design and Access Statement;
- Pre Demolition Site Investigation Report;
- Ground Investigation Report Appendix D;
- Ground Investigation Report Appendix F;
- Ground Investigation Report Appendix G;
- Preliminary Ecological Appraisal Rev B;
- Landscape and Visual Appraisal Part 1;
- Landscape and Visual Appraisal Part 2;
- Sequential Assessment;

- Transport Statement;
- Travel Plan Framework;
- Noise Assessment;
- Flood Risk Assessment;
- Tree Survey and Arboricultural Impact Assessment Rev A;
- Planting and Landscape Maintenance and Management Proposals;
- PAC Presentation Boards 1 and 2; and
- Pre Application Consultation Report.

Also submitted with the application but on a confidential basis, are:

- Market Report and Appraisals for Alternative Site Uses and Viability Assessment;
- Desktop Market Analysis;
- Hotel Demand Assessment;
- Net Economic Benefit Statement;
- Bat Activity Survey; and
- Preliminary Bat Roost Assessment.

The supporting Planning Statement explains that the Applicant is an established developer and has project managed many projects of this type in Scotland and throughout the UK.

It is stated in the Planning Statement that the main driver for the care home is the demographic profile within North Berwick, allied with socio-economic characterises of demand for nursing home and extra care provision, and that the proposed hotel is driven by increasing demand for visitor stays, a shortage in projected accommodation and an expectation of enhanced facilities within the area. The statement goes on to explain that the site is located within the East Lothian Strategic Development Area (SDA) as established in SESPlan's Strategic Development Plan 2013 and is a preferred area for development within the Local Development Plan, and complies with Scottish Planning Policy criteria for sustainable development along the A1/East Coast Corridor. The statement further explains that the site is well served by public transport and is easily accessible by a range of transport modes, and that there are good links to the town centre, nearby commercial areas and the adjoining residential areas.

Since the application was registered, amended plans have been submitted showing a revision to the positioning of the proposed hotel building to relocate it some 5 metres further to the south on the site with consequent changes to the hard landscaping in the form of parking and footpaths associated with the proposed hotel and drainage layouts. Amended plans have also been submitted to address discrepancies on the drawings, including the omission of relevant scale bars, and to address requests from the Council's Road Services regarding the access and parking layout and to address requests for changes to the soft landscaping of the site from the Council's Policy and Projects Landscape Officer. Further supporting information, including photomontages, a Flood Risk Assessment, an amended Tree Survey and Arboricultural Impact Assessment and a Planting and Landscape Maintenance and Management Proposals report have also been submitted.

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 Development Plan 2018.

Relevant to the determination of the application are Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies HOU6 (Residential Care and Nursing Homes – Location), EMP1 (Business and Employment Locations), TC1 (Town Centre First Principle), DP1 (Landscape Character), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), T1 (Development Location and Accessibility), T2 (General Transport Impact), NH8 (Trees and Development), NH4 (European Protected Species), NH10 (Sustainable Urban Drainage Systems), NH11 (Flood Risk), NH13 (Noise), CH2 (Development in Conservation Areas), CH4 (Scheduled Monuments and Archaeological Sites) and DEL1 (Infrastructure and Facilities Provision) of the adopted East Lothian Local Development Plan 2018.

Material to the determination of the application is Scottish Planning Policy: June 2014. Scottish Planning Policy states that development outwith a conservation area that would impact on the setting of the conservation area should in terms of its design, materials, scale and siting be appropriate to the setting of the conservation area.

Paragraph 132 of Scottish Planning Policy: June 2014 states that as part of the Housing Need and Demand Assessment, local authorities are required to consider the need for specialist provision that covers accessible and adapted housing, wheelchair housing and supported accommodation, including care homes and sheltered housing. This supports independent living for elderly people and those with a disability.

Also material is Scottish Planning Policy: June 2014 and Historic Environment Scotland Policy Statement June 2016 on development affecting a scheduled monument or its setting.

It is stated in the Historic Environment Scotland Policy Statement June 2016 and Scottish Planning Policy: June 2014 that scheduled monuments are of national importance and that they should be preserved in situ and within an appropriate setting. Where works requiring planning permission would affect a scheduled monument, the protection of the monument and the integrity of its setting are material considerations in the determination of whether or not planning permission should be granted for the proposed development.

Two public representations to the application have been received.

One of the representations to the application raises objection to the proposed development and the grounds of objection as summarised are:

- The proposed hotel would allow for harmful overlooking and loss of privacy of nearby residential properties; and
- the hotel building should be smaller and set further back on the site thus reducing noise and traffic impacts on the surrounding area.

The remaining public representation is made neither in support of nor in objection to the application and as summarised the comments made are:

- Neighbour notification of the application was totally inadequate with only two of the residential properties to the north being notified;
- The Council should apply its usual parking standards for both the proposed care home and hotel;
- The new access, if busy, will be dangerous and there should be a 'no right turn' into the new site from the Dunbar Road direction with all traffic clearly signed to proceed to the roundabout at the supermarket (Tesco) and approach the site from the east;

- The hotel bar/restaurant is not of a sufficient size to be adequate for either breakfast or evening meals for residents of the hotel;
- Will the hotel bar/restaurant get a licence and be open to the public?;
- The proposed care home is large; where will the staff come from or will they be poached from existing care homes in the area and is there any staff accommodation proposed?;
- Is the proposed hotel or the proposed care home viable? and
- The proposals would result in the loss of another business premises from North Berwick and the Council should ensure that a good supply of business premises is maintained for the type of business that would be lost (Mitchell's Cars).

The Council correctly undertook notification to relevant neighbouring properties of the application site in accordance with Regulations 18 and 20 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended).

The matters raised by an objector regarding the size of the hotel's bar/restaurant, whether or not the hotel's bar/restaurant would be licenced and open to non-residents, and how the staffing needs of the proposed care home would be met, including whether staff would be 'poached' from other facilities, are not material considerations in the determination of an application for planning permission.

North Berwick Community Council (NBCC), as a consultee to the application, raises objection to the care home element of the proposed development and the grounds of objection as summarised are:

1. that the proposal does not appear to be based on an analysis of need or consideration of the impact that such a large nursing care facility would have on local health services in particular; and
2. concerns about how a decision about the proposed facility has implications for discussions that are happening at present with the East Lothian Health and Social Care Partnership about proposals for the re-provisioning of care in inter alia North Berwick, and there is a risk that a decision in favour of a nursing home could significantly impact upon that process.

The application site is part of a larger area of land and buildings that is allocated as business and employment land in the adopted East Lothian Local Development Plan 2018 and as such is covered by Policy EMP1 (Business and Employment Locations). Policy EMP1 states that within areas allocated for business and employment, uses within Use Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 are supported. Other employment generating uses may also be supported in these locations subject to the town centre first principle (Policy TC1) and provided there would be no amenity conflicts or other unacceptable impacts. Proposals to redevelop employment sites or premises for other employment generating uses will only be supported where the uses proposed do not prejudice or inhibit the activities of a nearby employment use. Proposals must not adversely affect amenity and must be able to co—exist satisfactorily with existing or proposed uses on the site and in the surrounding area.

The proposed hotel and care home uses of the site are not uses within Use Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Rather the proposed hotel would be a use within Class 7 (Hotels and Hostels) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and the proposed care home would be a use within Class 8 (Residential Institutions) of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

In the supporting documents submitted with the application it is stated that the existing use of the site as a garage/workshop, car sales showroom and blacksmiths workshop is an under-utilisation of the site with very low employment.

The supporting documents state that it is estimated that the proposed 65-bed hotel and 70-bed care home would together initially create between 72-92 direct net jobs (22 jobs for the hotel and 50-70 jobs for the care home). The supporting Planning Statement quantifies that for the proposed care home it is expected that staff would work shifts and that no more than 24 staff would be on-site at any one time. The supporting documents further state that, overall once fully established, and allowing for displacement and off-site impacts, the proposed hotel and care home would together generate some 155 net additional jobs for the local economy. These jobs would be a mixture of full and part-time roles.

As employment generating uses, the proposed hotel and care home would, in principle, accord with the terms of Policy EMP1 of the adopted East Lothian Local Development Plan 2018, subject to the town centre first principle (Policy TC1) and provide there would be no amenity conflicts or other unacceptable impacts.

Policy TC1 of the adopted East Lothian Local Development Plan 2018 states that a 'town centre first' approach will be applied where appropriate to retail, commercial, leisure, office and other development proposals that would attract significant footfall, and applicants should provide evidence that locations have been considered in the order of preference set out in the Policy. Out-of-centre locations will only be considered where an applicant can demonstrate that: all town or local centre, edge of centre and other commercial centre options have been assessed and discounted as unsuitable or unavailable; the scale of the proposed development is appropriate, it cannot reasonably be altered or reduced in scale to allow it to be accommodated at a sequentially preferable location; the proposal will help to meet qualitative or quantitative deficiencies; and there will be no significant adverse effect on the vitality and viability of existing centres.

Although it is located to the west of a 'defined local centre' comprising Mill Walk Business Park and the supermarket (Tesco) and petrol station, the application site does not fall within a 'town centre' or 'defined local centre' of the adopted East Lothian Local Development Plan 2018. In its position to the west of the 'defined local centre', it would be reasonable to consider the application site to be an 'edge of centre' location.

A report on the Sequential Assessment of the proposed development has been submitted with the application. The report considers a number of potential sites within 'town centre' and 'local centre' locations, and concludes that the application site is in an accessible 'edge of centre' location of North Berwick, and that there are no alternative town centre or local centre premises or sites that would be appropriate to accommodate the proposed development. The report further concludes that the scale of the impact of the proposed development on the existing town centre would be limited and that the proposed development would not undermine the vitality and viability of North Berwick's Town Centre. The report further concludes that there are no 'town centre' premises or sites nor any 'local centre' premises or sites in North Berwick that are suitable or available that could accommodate the proposed development.

The supporting documents also provide a market report and appraisals for alternative uses of the site and viability assessment. The viability of alternative uses for the site as retail, office or industrial uses are considered in the supporting documents. In respect of a retail use of the site, the report concludes that this is a marginal option based on the location, size of development, incentives required, risk profile and build costs, especially given the location next to the existing supermarket. In respect of office and industrial

uses of the site, the report concludes that these alternative potential uses would not be viable options based on the location, size of development, incentives required, risk profile and build costs. Furthermore, in respect of industrial use the report suggests that the industrial units for which planning permission has been granted by the grant of planning permission in principle 15/00670/PPM would more than adequately suffice for any local demand.

The supporting documents state that demand in the area for care home beds is predicted to rise from 149 in 2017 to 164 by 2022 and 181 by 2027. In addition to demand, the report notes the demographic profile within North Berwick where the proportion of elderly residents materially exceeds both the Scotland and UK benchmarks, indicating that the area is attractive for retirement. As a result, a major driver for the proposed care home is the demographic profile within North Berwick. Existing care home bed supply within the catchment comprises 165 beds across 4 homes and the existing provision is considered to be of mixed quality with only some 52% of beds rated as compliant by Care Inspectorate ratings. Overall, the supporting documents find that there is an undersupply of 18 EMC/'Future proof' beds rising to 30 by 2027. The report concludes that although there is only a modest undersupply of beds, the existing quality is mixed and presents an opportunity for a new build high quality provision. It is stated that recruitment challenges have been considered and the remuneration levels for staff would be set at a level to attract recruitment.

The supporting documents go on to state that the demand for the proposed hotel is driven by increasing demand for visitor stays, a shortage of projected accommodation and an expectation of enhanced facilities within the area. The proposed hotel is expected to be a 'branded budget' facility and is in line with a pattern and trend across the hospitality sector, whereby hotels of this standard are effectively replacing the traditional supply of town-centre 3-star hotels, many of which have become tired and which have been affected by under-investment and which have faced challenges in meeting the needs and expectations of customers. As in other parts of the UK, the 3-star hotel segment in East Lothian has faced challenges, exemplified by the closure of traditional town centre hotels. The supporting documents consider demand for overnight stay accommodation across a range of different visitor types, and concludes that a review of current accommodation points towards a gap in the market in terms of the supply of a 'branded budget' hotel which is competitively priced and has capacity to stimulate discretionary spending.

The supporting documents further state that the proposed development would be important investment by a recognised and established UK firm and also a critical piece of infrastructure to aid economic growth for East Lothian and North Berwick providing important visitor and elderly care infrastructure and valuable employment uses to support the strategic ambitions of SESplan and East Lothian Council. It is stated that the proposals support the current economic strategy where there is a focus on creating local jobs, and wider supply chain benefits, through inward investment, the creation of local businesses and reducing the outward migration of employment to Edinburgh and beyond. It is further stated that the proposals would generate direct employment opportunities as well as throughout the construction phase. Overall, once fully operational, the proposed development is expected to employ 92 direct staff, and accounting for displacement and offsite impacts it is expected to generate 155 net jobs and inject £3.26 million in GVA terms into the local economy on an annual basis.

The Council's Economic Development Manager has considered the proposals, and advises that the East Lothian Economic Development Strategy 2012-22 has two strategic goals of increasing the number of businesses in East Lothian with growth potential and increasing the proportion of East Lothian residents working in and

contributing to East Lothian's economy. The Strategy has a target to create 7,500 new jobs within 10 years, of which some 879 are required in North Berwick. Economic Development further advise that the application involves the construction of two separate buildings and facilities – a care home and hotel. With regard to the care home, the applicant has shown demand with projected population growth in East Lothian and an under-supply of provision currently. In addition, the development will create 70 direct new jobs, net jobs increase of 95 and GVA effect of £1.74m. On the proposed hotel, the Economic Development manager advises that it would be of a size to meet demand from touring groups and would retain such expenditure within the area as per Economic Development Strategy/East Lothian Tourism Action Plan. A 'branded budget hotel' through its marketing channels can attract new visitors to the county and 66% occupancy is reasonable projection. It would also create 22 direct new jobs and 60 net additional jobs. The Economic Development Manager is supportive of the proposals as they would create new direct and indirect jobs and would meet a need for care home provision and hotel accommodation. Capital investment of £13.5m would generate £3m annual economic impact. For these reasons, the Economic Development Manager is supportive of the proposed development.

In respect of the sequential assessment, Economic Development advise that the application site is an 'out-of-centre' location but that there are no alternative town centre nor edge-of-town locations available for this scale and type of development. Thus, Economic Development raise no objection to the proposals on the matter of the sequential test.

Also in respect of the sequential assessment, the Council's Policy and Strategy Team advise that the proposed development is for two distinct and separate uses, and that the sequential assessment identifies that there are no other suitable sites within town centre or edge of centre locations that would be suitable or available for either the combined or individual uses.

On these foregoing considerations of the proposed use on this allocated employment land and the 'town centre first' principle, the proposed development has satisfactorily considered the sequential test and 'town centre first' principle, and thus, the proposed development does not conflict with Policy TC1 of the adopted East Lothian Local Development Plan 2018 as it relates to Policy EMP1 of the adopted East Lothian Local Development Plan 2018.

Policy EMP1 also states that proposals to redevelop employment sites or premises for other employment generating uses will only be supported where the uses proposed do not prejudice or inhibit the activities of a nearby employment use. Proposals must not adversely affect amenity and must be able to co—exist satisfactorily with existing or proposed uses on the site and in the surrounding area.

The uses in the surrounding area are mixed, including residential properties, a cemetery, business, retail, and a Council Depot. In the context of this mix of uses, the proposed hotel and care home uses would, in principle, be compatible with the mixed business and residential uses of the wider area.

Although not a residential use within Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, the proposed care home use has similarities with a residential property in that the residents of it would live and sleep on the premises and thus would have an expectation for a degree of amenity. The proposed hotel would not have the same requirement for amenity as would a residential property or a residential institution.



A Noise Assessment report has been submitted with the application. In respect of this report, the Council's Environmental Health and Trading Standards service advises that subject to the recommended controls of this report that: (i) a 2.5 metres high acoustic barrier be provided along the eastern boundary of site between the external amenity area of the proposed care home and the service/delivery yard of the supermarket; (ii) a 2.0 metres high acoustic barrier be provided along the western boundary of site between the external amenity area of the proposed care home and the Council Depot and on the eastern boundary of the site between the car park of the proposed care home and the service/delivery yard of the supermarket; (iii) the glazing units of the windows of the north, east and west elevations of the proposed hotel shall be fitted with passive acoustic ventilators that provide a minimum attenuation of 33dB; and (iv) plant and equipment associated with the operation of the proposed hotel and care home shall be designed and located so that noise associated with their operation shall not exceed noise rating curve NR20 at any octave band frequency between the hours of 2300 to 0700 and noise rating curve NR25 at any octave band frequency between the hours of 0700 to 2300 within any bedroom of the care home. Subject to such controls, which can be secured through conditions attached to a grant of planning permission for the proposed development, the Council's Environmental Health and Trading Standards service raise no objection to the proposals.

Subject to the aforementioned planning controls, the proposed hotel and care home uses would be compatible with the mix of business and residential uses of the wider area, and would not prejudice or inhibit the activities of a nearby employment use, would not adversely affect amenity and would be capable of satisfactory co—existence with existing or proposed uses in the surrounding area.

Accordingly, on the foregoing considerations of the use of employment land, the proposed development would not conflict with Policies EMP1 and TC1 of the adopted East Lothian Local Development Plan 2018.

In paragraph 3.59 of the adopted East Lothian Local Development Plan 2018 it is stated that there have been a number of closures of nursing and residential homes in East Lothian resulting in significant reduction in the number of places available. At the same time the number of very elderly people in East Lothian is rising and this is projected to grow over the plan period. Together with NHS Lothian, the Council is examining ways in which the supply of care places can be increased. The proposed development would help to address this need through the provision of a care/nursing home.

The contribution that the proposed development would make towards increasing the supply of care places for elderly people and the provision of hotel bed spaces, together with the economic benefits that would result, are significant material considerations.

Policy HOU6 of the adopted East Lothian Local Development Plan 2018 encourages developers of care and nursing homes to choose sites within existing settlements. Proposals must have reasonable access to the normal range of community services and be acceptable in terms of impacts on amenity and the environment. They have to be the subject of consultation with the Director of East Lothian's Health and Social Care Partnership.

The application site is within North Berwick. In its location immediately to the west of the 'defined local centre', the proposed new care home would be well positioned on the eastern approach into North Berwick and with good access to a range of transport options and local facilities. Furthermore, it would have reasonable access to the normal range of community services a short journey away in North Berwick Town Centre. Thus, on these considerations, the proposed care home does not conflict with Policy HOU6 of

the adopted East Lothian Local Development Plan 2018.

East Lothian's Health and Social Care Partnership (HSCP) do not support the proposals. It is stated that the recent construction of the Haddington Care Home, the continuing development of community support services for the elderly, the planned re-provision of Abbey and Eskgreen Care Homes and Belhaven and Edington Community Hospitals and associated extra care housing developments, means East Lothian Health and Social Care Partnership (HSCP) is of the view there is sufficient care home provision in East Lothian to meet the needs of older people. For this reason, the HSCP would not seek to purchase further care home beds for its elderly patients. In addition, the HSCP advise that a care home development would place extra and unplanned demand on the North Berwick GP Practice as residents, many likely to have complex care needs, would require to register with the Practice for primary care services. For these reasons, the Health and Social Care Partnership does not support the application for the proposed care home.

Paragraph 3.59 of the adopted East Lothian Local Development Plan 2018 notes that there have been a number of closures of nursing and residential homes in East Lothian resulting in significant reduction in the number of places available. At the same time the number of very elderly people in East Lothian is rising and this is projected to grow over the plan period.

The Council's Local Housing Strategy (June 2018) notes the projected population increase of about 42% of those of pensionable age and over in East Lothian between 2014 and 2039. North Berwick Coastal currently has the second highest number of older people aged 65 and over, although is generally projected to have the lowest projected percentage increase across the county. The exception to this is for older people aged 85 and over, with North Berwick Coastal projected to have the highest increase in numbers. In spite of the shift to less reliance on institutional care for the elderly, approximately 600 units of specialist accommodation for older people are estimated to be required to meet existing need and projected demand over a ten-year period to 2026. This could include care homes, extra care housing or sheltered housing. Approximately half of this will be required in the eastern area of East Lothian, which includes North Berwick. Accordingly, an action to develop 300 units of such specialist accommodation, between 2018-2023, is set out in the Local Housing Strategy (Table 8.4).

The proposed care home would contribute towards the provision of care home places for the projected rising number of elderly in North Berwick and East Lothian as a whole.

The need for or viability of the proposed care/nursing home use is a matter for the developer and is not a material consideration in the determination of this planning application. The lack of need for a new care home in North Berwick is not a planning reason which would normally support a refusal of planning permission. There is a private market for this type of provision outside of the NHS and it is for the developer to assess if that market would support the proposal.

On the matter of the impact of the proposed care home on GPs in the area, a proposed care home would place a different kind of demand on GPs than is generated by housing development, as residents of nursing homes tend to be visited by their GP rather than going to the GPs surgery, and the effects of unplanned demand on GP practices relate to the ability to recruit and retain doctors, rather than issues of physical infrastructure. As was the conclusion of the Reporter in a recent appeal decision at the Quay development in Musselburgh (Ref: PPA-210-2068), the ongoing costs of GP provision are a matter for the National Health Service.

Class 8 (Residential Institutions) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 sets out that residential institutions are a use (a) for the provision of residential accommodation and care to people in need of care other than a use within class 9 (house); (b) as a hospital or nursing home; or (c) as a residential school, college or training centre. The applicant's agent has stated that the proposed care home use is designed to be operated as a care home or nursing home as defined by Class 8a and 8b of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and would be occupied by residents only for the provision of residential accommodation and care to people in need of : (i) personal care including the provision of appropriate help with physical and social needs or support and (ii) medical care and treatment. It would not be for any other residential purpose and excludes assisted living.

In order to ensure that the proposed care home would be used only as a care/nursing home under Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, it would be prudent for the Council as Planning Authority to restrict the occupancy of it to a care/nursing home use under Class 8. This matter could be controlled by a condition attached to a grant of planning permission.

Policy DP7 supports infill and backland development provided the site can accommodate the entire development, including an appropriate amount of open space, satisfactory vehicle and pedestrian access and car parking and the scale and design of the proposed development being sympathetic to its surroundings.

Policy DP1 requires that all new development must be well integrated into its surrounding and should include appropriate landscaping.

Policy DP2, amongst other things, requires that all new development must be well designed and integrated into its surroundings.

Policy CH2 requires that all new development proposals within or affecting a Conservation Area or its setting must be located and designed to preserve or enhance the special architectural or historic character or appearance of the Conservation Area.

Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) seeks, amongst other matters, to ensure that there are no significant adverse impacts on the integrity of international, national and local designations and classifications, including built or cultural heritage sites, that development has regard to the need to improve the quality of life in local communities by conserving and enhancing the natural and built environment.

Both national planning and development plan policy states that in designing proposed new buildings developers should think about the qualities and the characteristics of places. The development should reflect its setting and local forms of building and materials. The aim should be to have buildings looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

The application site is contained within the built form of North Berwick with development to the north, east and west sides of it, and development approved for the land to the south of it. The site is not within the North Berwick Conservation area but is located directly opposite a part of the southern edge of that Conservation Area.

The area around the site is characterised by residential and mixed-use commercial and employment uses, as well as a cemetery. Beyond the cemetery and further to the west along Tantallon Road is a bus depot, which although a single storey building is a building of significant scale and massing more akin to a large two storey building, and a recently

constructed assisted living development of some three storeys in height. To the east are the single and two storey buildings of Mill Walk Business Park and the large supermarket building. On the opposite side of Tantallon Road to the north and on the land to the south of the application site are two storey houses. In all of this, the area is characterised by buildings of two and three storey height and of varied scale and massing.

Due to the mixed residential, commercial and employment uses in the surrounding area, the buildings of the area are of a variety of architectural form, character and design, including flat and dual pitched roofs. Notwithstanding the mixed architectural form, character and design of the surrounding buildings, many of them have a predominantly rendered finish to their external walls and roofs have a red tile or slate finish.

The wider landscape is dominated by the imposing feature and Scheduled Ancient Monument of North Berwick Law.

The northern two-thirds of the application site presently contain development in the form of buildings and hardstanding areas, which are used for employment. Thus, the application site can be considered to be partly brownfield and industrial in nature.

The proposed 65-bed hotel would be positioned on the northern half of the site and the proposed 70-bed care home would be positioned on the more secluded southern half of the site. The land to the south of the site, which has planning permission for the erection of houses, is gently undulating and slopes upwards to the south.

The proposed hotel and care home buildings would each be three storeys in height. The proposed hotel would have a flat roofed contemporary architectural form and design and the proposed care home would have a part dual pitched and part flat roofed form, and would also be of a contemporary architectural form and design.

At some 3 storeys in height, with roof ridge heights respectively of some 11 metres above ground level and some 13 metres above ground level, the proposed hotel and care home would be a whole storey higher than the neighbouring buildings immediately to the east and west of the site. However, in the context of the mixed two and three storey heights and the varied scale of the neighbouring and nearby buildings of this part of North Berwick, including the supermarket to the east of the site and the bus depot and retirement development further away to the west, the proposed hotel and care home, although somewhat higher than the immediately neighbouring buildings, would not appear so much higher and of such a greater scale and massing than the surrounding buildings so as to appear harmfully dominant or intrusive within the streetscape. The articulation of the elevation walls of the proposed hotel and care home buildings, through their stepped design and the use of the different finishes on their external walls would further help to break up the appearance of the massing of the buildings. Furthermore, the existing built form to the east of the site and the proposed and existing tree planting along the east and west boundaries of the site would further help to break up the massing of the buildings and the proposed tree planting would also help to integrate the proposed buildings into the streetscape. The Council's Landscape Officer (Policy and Projects) recommends the planting of 2 or 3 large species trees in positions to the north and northeast of the north elevation of the proposed hotel building to further aid in breaking up the massing of the proposed hotel building in the streetscape and thus aiding its integration into the streetscape. The application drawings include details of such form of landscape planting, including that two of the new trees would be evergreen species. The requirement for such landscape planting could be made a condition of a grant of planning permission.

Furthermore, the buildings on the south side of Tantallon Road are not positioned a

uniform distance back from the edge of that public road and thus, there is no uniform defined building line along the south side of Tantallon Road. The proposed hotel building would be positioned with its front (north) elevation set back some 12 metres (minimum) from the north (roadside) boundary of the site. As so positioned, it would not be out of keeping with the alignment and positioning of the other buildings on the south side of Tantallon Road and their relationship with that public road.

In its position on the southern half of the application site, the proposed care home building would not have a direct relationship with Tantallon Road. Rather it would be positioned to the rear (south) of the proposed hotel building and would have a similar relationship with that classified public road as does the supermarket building which is set on the southern half of its plot further to the east.

In the context of the mixed heights, scale and positioning of the surrounding buildings, the proposed hotel and care home buildings would sit comfortably alongside the existing built form of this part of North Berwick. Although somewhat larger in both height and scale, by virtue of their design and use of materials, they would not appear so much higher or larger as to appear harmfully dominant within the streetscape.

In the context of the mixed architectural form, character and design of the buildings of this part of Tantallon Road, including the recently built retirement development further to the west and the relatively modern, utilitarian appearance of the buildings of Mill Walk Business Park and the supermarket to the east, the contemporary architectural form, character and design of the proposed hotel and care home buildings, including their flat roofed and dual pitched roof forms, would not be harmful to the character and appearance of the streetscape. The design of the proposed buildings and the use of their external finishes would help to break up the massing of the proposed buildings. By virtue of their size, height, architectural form and design, the proposed hotel and care home buildings would sit comfortably alongside the mixed architectural form, character and design of the surrounding buildings and would harmonise and contribute further to that mix of architectural form, character and design within the surrounding area. Furthermore, the palette of external finishes of render, composite cladding and grey tiles would be sufficiently in keeping with the palette of external finishes of the surrounding buildings and would otherwise harmonise with, complement and add to the existing palette of finishes in the surrounding area. The proposed buildings would be distinct in their own architectural form, design and finishes and would add to the mixed architectural character and design of the buildings of the surrounding area.

On these considerations of heights, scale, massing, form and design, the proposed hotel and care home buildings would be sufficiently in keeping with the heights, scale, form and character of the buildings in the surrounding area and would not have such a presence as to appear harmfully obtrusive in their setting. The proposed development would fit comfortably into the pattern and density of the built form of this part of North Berwick. It would display sufficient design qualities in keeping with characteristics of the surrounding buildings and their external finishes and would not be harmfully at odds with or detract from the mixed architecture of this part of North Berwick, and thus it would not be harmful to the character and appearance of the streetscape and surrounding area. Nor would the proposed development detract from the setting of the North Berwick Conservation Area on the opposite side of Tantallon Road.

The proposed (acoustic) boundary fencing that would be erected along the southern parts of the east and west boundaries of the site would be set well back from the frontage of the site. It would be viewed in the context of the existing high stonewalls and fencing already erected along those boundaries of the site. Seen as it would be in its relationship with the proposed hotel and care home buildings, and in the context of the existing

boundary enclosures in the vicinity, and in its positions on the southern parts of the east and west boundaries of the site, the proposed (acoustic) boundary fencing would not be significantly different from other boundary enclosures of the area and would not appear harmfully prominent or incongruous within its landscape setting. It would not be harmful to the character and appearance of the proposed development or the character and appearance of the area.

Seen as they would be in their relationship with the proposed hotel and care home buildings, the proposed hardstanding areas in the form of the access road, car parking and footpaths, would not appear as incongruous features within the setting of the proposed hotel and care home, and would not be significantly different from other areas of hardstanding of the area. They would not appear harmfully prominent or incongruous within their landscape setting and would not be harmful to the character and appearance of the proposed development or the character and appearance of the area.

The 1 metre high stone boundary wall that encloses the north (roadside) boundary of the site is part of a length of roadside stone wall of varying heights and form that extends along the north (roadside) boundary of Mill Walk Business Park to the east of the site, along the site frontage, and continues westwards along the roadside frontage of Cemetery Lodge, of the Cemetery and the retirement development. The application drawings do not propose the removal of the north (roadside) boundary wall of the application site other than to enable the alterations to the vehicular access and for the provision of a pedestrian access further to the west along the north (roadside) boundary of the site. The existing length of roadside boundary wall is a characteristic feature of this part of Tantallon Road and is replicated to some extent on the north side of Tantallon Road where a part of the boundary of North Berwick Glen is enclosed by a similar low height stone wall. Only short lengths of the existing roadside boundary wall would be required to facilitate the formation of the proposed vehicular and pedestrian accesses. The removal of such short lengths of the roadside boundary wall would not have a harmful impact on the character of the streetscape of this part of North Berwick. It would however be prudent for the Council as Planning Authority to require that other than for the formation of the proposed vehicular and pedestrian accesses the roadside stone boundary wall should be retained at its existing height and any areas that require to be built up should be carried out using stone, coursing and pointing to match that of the existing roadside wall.

The Scheduled Monument of North Berwick Law dominates the views westwards on the approach into North Berwick on the A198 from the east beyond the Tesco supermarket. However, once travelling further west, into the built form of Tantallon Road and beyond the supermarket roundabout, the views of the Law are more interrupted by the built form on the south side of Tantallon Road. Along this section of Tantallon Road, the views of the Law vary as different buildings obscure views of the lower parts of its landform and it is the upper parts of the Law that remain more visible above the built form. Thus, although at three storeys in height the proposed hotel and care home buildings would interrupt views of the Law in the vicinity of the application site, such interruption would be of short duration and there would continue to be views of the Law along Tantallon Road. Moreover, the Law would remain the dominant feature in views further to the east of the application site on the approach into North Berwick. In this context, the proposed development would not have a harmful impact on the setting of the Scheduled Ancient Monument of North Berwick. Nor would the proposed development have a harmful impact on views out from North Berwick Law, as the application site forms part of the built form of eastern part of North Berwick and the proposed hotel and care home buildings would be proportionate to the surrounding built environment and would blend in with the existing buildings that comprise such views out from the Law. While the proposed development would be perceptible in such views, it would not impact upon the ability to

understand, appreciate and experience North Berwick law as a heritage asset.

Historic Environment Scotland raise no objection to the proposals. They express no concerns as to the effects of it on the setting of the Scheduled Ancient Monument of North Berwick Law.

The site is capable of accommodating all of the proposed development including satisfactory vehicular and pedestrian access and amenity space without being an overdevelopment of it. The proposed development would not be of a density incompatible with existing densities of development in the area.

In conclusion, on the above design considerations, the proposed scheme of development is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DP1, DP2, DP7, CH2, and CH4 of the adopted East Lothian Local Development Plan 2018, Scottish Planning Policy: June 2014 with respect to the affect of it on the setting of the scheduled ancient monument of North Berwick Law and on the setting of North Berwick Conservation Area and Historic Environment Scotland Planning Statement June 2016 with respect to the affect of it on the setting of the scheduled ancient monument of North Berwick Law.

On the matter of the impact of the proposed hotel and care home buildings on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair. By virtue of their height, positioning and distance away from neighbouring residential properties, the proposed hotel and care home buildings would not, in accordance with the Guide, give rise to harmful loss of daylight or sunlight to any neighbouring residential properties and therefore would not have a harmful affect on the residential amenity of them. In turn, the proposed care home building would also benefit from a sufficient amount of daylight and the garden of the proposed care home would benefit from a sufficient amount of sunlight.

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

None of the windows of the proposed hotel or of the proposed care home would be less than 9 metres away from the garden ground of any nearby neighbouring residential properties or within 18 metres of any directly facing windows of any nearby neighbouring residential property. Furthermore, there would be some 25 metres between the south elevation of the proposed hotel and the north elevation of the proposed care home. Accordingly, the proposed hotel and care home would not allow for harmful overlooking of any neighbouring residential property or between each other. The proposed care home would also benefit from a sufficient amount of amenity, with the majority of care home bedrooms overlooking the private gardens of that proposed building.

To further safeguard the privacy and amenity of the nearby residential properties the edges of the site would be landscaped with trees and hedging. The proposed development would provide an attractive residential environment for future residents of the care/nursing home.

On the matters of privacy and amenity the proposed development is consistent with

Policies DP1, DP2, DP7 and NH13 of the adopted East Lothian Local Development Plan 2018.

A Pre Demolition Site Investigation report has been submitted with the application. The Council's Environmental Health and Trading Standards service (Contaminated Land) has considered this report and advises that he concurs with the recommendations therein that an additional intrusive investigation is necessary once site demolition has been completed. This is required due to the preliminary investigations identifying chemical contamination within the soils as well as potential groundwater and gassing issues on the site. The Environmental Health and Trading Standards service (Contaminated Land) therefore recommend that a condition be attached to a grant of planning permission for the proposed development to secure the carrying out of a suitable Geo-Environmental Assessment and any recommended remedial works prior to the commencement of development on the site. Subject to the aforementioned condition, the Environmental Health and Trading Standards service (Contaminated Land) raises no objections to the proposed development.

The application site is on a main thoroughfare into North Berwick with a bus stop located some 90 metres away to the east and North Berwick railway station some 1.9 kilometres away to the northwest. Existing public footpaths link the site to nearby commercial and residential areas. In such circumstances, it can be said that the site is well served by public transport and is easily accessible by a range of transport modes and has good links to North Berwick Town Centre, nearby commercial areas and adjoining residential areas, as well as more open countryside to the east.

The Council's Road Services raise no objection to the proposed development being satisfied that the proposed vehicular access, parking and turning arrangements would provide the proposed development with a safe means of vehicular access, and a satisfactory provision of on-site parking and turning, including cycle parking provision.

A draft Green Travel Plan (GTP) has been submitted with the application, Road Services advise that this is in principle acceptable however an up-to-date GTP for the proposed development should be submitted prior to the occupation of the proposed hotel and care home. The requirement for this could be controlled by a condition attached to a grant of planning permission for the proposed development.

Subject to this aforementioned control, Road Services raise no objection to the proposals, which do not conflict with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

It would also be prudent for the Council as Planning Authority to require a Construction/Demolition Method Statement to minimise the impact of construction activity on the amenity of the area, with measures to control construction traffic, noise, dust, and hours of construction work. This could be controlled by a condition attached to a grant of planning permission for the proposed development.

Road Services recommend that EV charge points be provided for the proposed development. Policy T31 of the adopted East Lothian Local Development Plan 2018 explains that the Council will encourage and support the principle of introducing electric vehicle (EV) charging points around both existing and proposed community facilities such as schools and retail areas, including from developers as part of new developments that contain such facilities or areas. The proposed development does not include any EV charge points and Policy T31 does not require their provision for hotel and care home developments.



The Council's Waste Services raises no objection to the proposals.

The Scottish Environment Protection Agency (SEPA) initially raised objection to the proposals on the grounds of a lack of information relating to flood risk. Their flood risk concerns related to a small watercourse immediately to the north of the A198, which may be culverted through the site.

The applicant's agent has submitted a flood risk assessment (FRA) for the proposals, which SEPA have considered. SEPA advise that the FRA indicates that there is no culverted watercourse within the site and that the only drainage relates to site drainage from the existing development which is discharged into the open watercourse to the north, which in turn outfalls to the Mill Burn. SEPA comments that should any surcharging of the drainage culvert occur then water would build up to a level of 33.1mAOD before flowing north over the road and back into the open channel. SEPA advise that they are satisfied that the site levels are elevated above 33.1mAOD and that finished floor levels for the proposed hotel and care home buildings are respectively shown to be 34.5mAOD and 36.16mAOD. Accordingly, SEPA remove their objection to the proposals. Subject to the finished floor levels of the proposed hotel and care home buildings being 34.5mAOD and 36.16mAOD respectively, SEPA are satisfied that there would be no unacceptable flood risk in respect of the proposed hotel and care home.

The drainage drawings for the site have since been amended to take account of different positioning for the combined sewer on the site. The drainage drawings now show the ground floor finished floor levels of the proposed hotel and care home buildings to be respectively 34.25m AOD and 36.15m AOD. These levels remain higher than the 33.1mAOD level of flooding surcharge noted by SEPA. Thus, the ground floor finished floor levels of the proposed hotel and care home buildings still accord with SEPA's requirements.

The Council's Structures, Flooding and Street Lighting Team Manager also initially raised concerns regarding the lack of flood risk assessment or water and drainage assessment for the site and the suitability of the proposed SuDS in light of flooding on the site.

The Structures, Flooding and Street Lighting Team Manager has considered the submitted flood risk assessment and drainage information, and concurs with SEPA's comments regarding the finished floor levels of the buildings. The Structures, Flooding and Street Lighting Team Manager raises no objection to the proposed development subject to a condition being imposed to secure the finished floor levels of the proposed hotel and care home buildings.

Subject to the aforementioned planning controls recommended by SEPA and the Council's Structures, Flooding and Street Lighting Team Manager regarding the ground floor finished floor levels of the proposed hotel and care home buildings, there would be no unacceptable flood risk in respect of the proposed development. Accordingly, the proposals do not conflict with Policy NH11 of the adopted East Lothian Local Development Plan 2018.

The sustainable urban drainage system (SuDS) for the treatment of surface water from the proposed development would be in the form of permeable paving, a filter trench and an underground storage tank. The Scottish Environment Protection Agency and Scottish Water have not commented on this matter. The Structures, Flooding and Street Lighting Team Manager confirms that the proposed drainage/SuDS arrangements are designed to an acceptable standard. Accordingly, the proposals do not conflict with Policy NH10 of the adopted East Lothian Local Development Plan 2018.

The proposal includes the removal of a row of fourteen trees from the northern (roadside) boundary of the site, the removal of four trees from the row of thirteen trees on the west boundary of the site and the removal of a short length of beech hedgerow that is located between an existing building on the northern part of the site and the internal access road. Otherwise, the remaining trees on the west boundary of the site and a further tree on the east boundary of the site would be retained. The planting proposals have been amended to overcome concerns raised by the Council's Amenity Services Officer that excavations for burials would impact on the proposed new tree planting along the west boundary of the site. The planting proposals have been further amended to include the planting of additional large species trees to the north of the proposed hotel building to help to integrate that building in to the streetscape.

The Council's Landscape Officer (Policy and Projects) raises no landscape objections to the proposals, being satisfied that the proposed development would not be harmful to the retained trees on the site and that the proposed tree planting would mitigate for the loss of the existing trees that are proposed to be felled. He further advises that the information within the Tree Survey and Arboricultural Impact Assessment should be adhered to through the construction process and that the existing trees that are proposed to be retained should be protected during the construction process. The requirements for the tree protection, new tree planting and the adherence to the Tree Survey and Arboricultural Impact Assessment report could be secured by the imposition of conditions, were planning permission to be granted for the proposed development.

On the matters of tree felling, retention and landscaping of the site, the proposed development does not conflict with Policies DP1, DP2, DP7 and NH8 of the adopted East Lothian Local Development Plan 2018.

The Council's Principal Amenity Officer is satisfied that the proposed use, once operational, would be unlikely to result in any additional disturbance to the ambience of the adjacent cemetery beyond that which already occurs from the existing commercial activity in the area. The Principal Amenity Officer recommends that mechanical plant such as air conditioning units or extractor fans of the proposed development should be positioned and rated to avoid detriment to the cemetery ambience. The application drawings show the mechanical plant and equipment to be located within the building. However, this matter could be controlled by a condition attached to a grant of planning permission requiring details of the position and rating of the mechanical plant and equipment to be submitted for the prior approval of the Planning Authority prior to its installation.

The Principal Amenity Officer further comments that construction works on the site would have the potential to disturb the ambience of the adjacent cemetery, particularly during burials, and that controls should be imposed to ensure that during the construction phase consideration of cemetery burials is put in place. The requirement for such consideration could be incorporated into a construction method statement for the proposed development, which could be controlled by a condition attached to a grant of planning permission.

The Principal Amenity Officer further comments that the proposed tree planting along the west boundary of the proposed care home (i.e. the southern part of the site) would be at risk in the future from excavations for burials, which could result in the maturing trees becoming unsafe due to excavations within their root protection area. The Council's Landscape Officer (Policy and Projects) advises that this concern could be addressed through the use of a root barrier membrane installed between the new tree planting of the west boundary and the adjacent cemetery land. The requirement for the installation of the root barrier could be secured by the imposition of a condition, were planning

permission to be granted for the proposed development.

A Bat Roost Assessment, Bat Activity Survey, and Preliminary Ecological Appraisal have been submitted with the application. The Council's Biodiversity Officer has considered these reports.

The Council's Biodiversity Officer advises that, subject to the recommendations of Table 4 of the Bat Roost Assessment, Table 3 of the Bat activity Survey and Table 4 of the Preliminary Ecological Appraisal being adhered to, details that can be secured through the imposition of conditions were planning permission to be granted for the proposed development, he raises no objection to the proposals, being satisfied that the proposals would not adversely affect protected species. Accordingly, the proposals do not conflict with Policy NH4 of the adopted East Lothian Local Development Plan 2018.

Scottish Natural Heritage raise no objection to the proposals being satisfied that they would be unlikely to pose direct impacts on the qualifying interests and features of the Firth of Forth SPA / SSSI or the North Berwick Law SSSI.

Scottish Water has been consulted on the proposals and raises no objection to the proposed development.

The proposed development is for employment and tourism development and would have a gross floor area exceeding 100 square metres. Policy DEL1 (Infrastructure and Facilities Provision) requires that development proposals of this size and type, where relevant, makes appropriate provision for infrastructure and community facilities required as a consequence of their development in accordance with Scottish Government Circular 3/2012 (or any revision).

In this case, as employment and tourism development, the proposals should be considered against requirements for the provision of transport infrastructure as set out in the Developer Contributions Framework Supplementary Guidance of the adopted East Lothian Local Development Plan 2018.

In the case of the proposals, the Council's Planning Obligations Officer advises that there would be no justification to seek cumulative transport contributions towards the seven transport interventions as the application site would be outwith the 1.2km buffer of the Segregated Active Travel Corridor and therefore a contribution would not be justified. Furthermore, the site is a windfall proposal and has not been included as part of the assessment of the Local Development Plan Cumulative Transport Appraisal. Transport consultants and the Council's Road Services advise that this scale of employment related development in North Berwick is unlikely to generate more than a few trips related to each intervention for which contributions are sought through Policy DEL1 and therefore the level of relationship between the development and the interventions is likely to be 'de minimus' and no contributions are justified. Thus, in the particular circumstances of this application, there is no requirement for developer contributions towards transport infrastructure and the proposals do not conflict with Local Development Plan Policy DEL1.

## RECOMMENDATION

That planning permission be granted subject to the undernoted conditions:

- 1 Prior to the commencement of the development hereby approved on the site, a suitable Geo-Environmental Assessment shall be carried out, and the report of the Geo-Environmental Assessment shall be made available to the Planning Authority for its written approval prior to development proceeding on the site. The Geo-Environmental Assessment report shall include details of the following:

- Phase II - incorporating a site survey (ground investigation, sample analysis and gas monitoring) and risk evaluation;
- Phase III - where risks are identified, a Remediation Strategy shall be produced detailing and quantifying any works which must be undertaken in order to reduce the risks to acceptable levels.

Should the Geo-Environmental Assessment report indicate that remedial works be required, then prior to either the hotel or care home buildings hereby approved being occupied, a Validation Report shall be submitted to the Planning Authority for its prior approval in writing confirming the remedial works have been carried out in accordance with the Remediation Strategy.

In the event of the presence of any previously unsuspected or unforeseen contamination of the land of the application site being found, such contamination of the land shall be brought to the attention of the Planning Authority and development shall not begin, or shall cease to continue, until further investigations have been carried out to determine if any additional remedial measures are required and if relevant a scheme to deal with that contamination on the site has been submitted to and approved in writing by the Planning Authority.

**Reason**

To ensure that the site is clear of contamination prior to the occupation of either the hotel or care home buildings.

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

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

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

**Reason:**

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

- 3 The ground floor finished floor levels of the hotel and care home buildings hereby approved shall not be lower than 34.25m AOD and 36.15m AOD respectively, unless otherwise approved by the Planning Authority in consultation with the Scottish Environmental Protection Agency.

**Reason:**

In the interest of the prevention of flood risk.

- 4 Prior to the hotel or care home hereby approved being brought into use the vehicular access, internal access road, parking and turning arrangements also hereby approved, including the bicycle storage provision, all as shown on drawing nos. J3932-002 E, J3932-SK01, PL14 A and PL-00 J docketed to this grant of planning permission shall all have been laid out, completed and made available for use, and thereafter the vehicular access, internal access road, parking and turning arrangements cycle parking arrangements shall be retained in use as such, unless with the prior approval of the Planning Authority.

**Reason:**

In the interests of road safety.

- 5 Prior to the commencement of use of the hotel or care home hereby approved a Green Travel Plan to minimise private car trips and to encourage use of alternative modes of transport such as walking, cycling, trains, buses, and car sharing/car clubs shall be submitted to and approved by the

Planning Authority. Additionally, the Green Travel Plan shall be very clear on how active travel and public transport information will be promoted to employees and visitors of both the hotel and care home and shall include details of the measures to be provided, the methods of management, monitoring, review, reporting and duration of the Plan.

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

Reason:

In the interests of ensuring sustainable travel patterns in respect of the hotel and care home hereby approved.

- 6 No development shall take place on the site until details of a Construction and Demolition Method Statement designed to minimise construction and demolition works and the impact of the movements of construction and demolition traffic to and from the application site shall be submitted to and approved by the Planning Authority prior to the commencement of development on the site. The Construction and Demolition Method Statement shall include measures to minimise the impact of construction activity on the amenity of the area, including how such work will manage and minimise potential disruption to the adjacent cemetery particularly during burials, to control construction traffic, noise, dust, hours of construction and demolition work and wheel washing facilities and their use, and any recommended mitigation measures for their control, which shall, as may be applicable and as respectively relevant, be implemented prior to the commencement of development, during the period of development works being carried out on the application site, and once the use of the building hereby approved has commenced.

Thereafter the measures of the Construction Method Statement so approved shall be implemented throughout the period of construction.

Reason:

To minimise the impact of construction and demolition traffic and works in the interests of the amenity of the area and road and pedestrian safety in the locality.

- 7 A schedule and samples of all external materials and finishes, including colours, to be used for the roofs, external walls, windows, doors, and rainwater goods of the hotel and care home buildings hereby approved shall be submitted for the prior inspection and approval in writing by the Planning Authority prior to their use in the development hereby approved. Thereafter, the external materials and finishes, including colours, used shall accord with the details and samples so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colours to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area and the setting of the North Berwick Conservation Area.

- 8 A schedule and samples of all of the surface finishes of the internal road, parking, footpaths and patio areas hereby approved shall be submitted for the prior inspection and approval in writing by the Planning Authority prior to their use in the development hereby approved. Thereafter, the surface finishes of the internal road, parking, footpaths and patio areas used shall accord with the details and samples so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colours to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area and the setting of the North Berwick Conservation Area.

- 9 Details of the positioning, size, form, appearance and colour of all roof and wall vents and flues of the hotel and care home buildings hereby approved shall be submitted to and approved in advance in writing by the Planning Authority, and thereafter the roof and wall vents and flues of the hotel and care home buildings shall accord with the details so approved.

The roof and wall vents and flues of the hotel and care home buildings shall, where possible, be fitted as flush as possible with the outer surface of the wall or roof of the building into which they are to be installed and they shall match as closely as possible the colour of that part of the roof or wall of the building, unless otherwise approved by the Planning Authority.

Reason:

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

the setting of the North Berwick Conservation Area.

- 10 Prior to the occupation of the hotel and care home buildings hereby approved, acoustic fencing shall be erected as follows:

1. A 2.5 metres high acoustic barrier/fence shall be provided along the section of the eastern boundary of the site between the external amenity area of the care home and the supermarket service/delivery yard as shown coloured green in Figure 2 of ITP Energised's Noise Report Ref 11154-002 of 13/07/18 docketed to this grant of planning permission. The barrier/fence shall be constructed so that it is continuous and close boarded so that it has no holes or gaps and has a minimum surface mass of 10kg/m<sup>2</sup>; and

2. A 2.0 metres high acoustic barrier/fence shall be provided along the section of the western boundary of the site between the external amenity area of the care home and the Council Amenity Depot as shown coloured yellow in Figure 2 of ITP Energised's Noise Report Ref 11154-002 of 13/07/18 docketed to this grant of planning permission. The barrier/fence shall be constructed so that it is continuous and close boarded so that it has no holes or gaps and has a minimum surface mass of 10kg/m<sup>2</sup>; and

3. A 2.0 metres high acoustic barrier/fence shall be provided along the section of the eastern boundary of the site between the car park of the care home and the supermarket service/delivery yard as shown coloured yellow in Figure 2 of ITP Energised's Noise Report Ref 11154-002 of 13/07/18 docketed to this grant of planning permission. The barrier/fence shall be constructed so that it is continuous and close boarded so that it has no holes or gaps and has a minimum surface mass of 10kg/m<sup>2</sup>.

Details of such boundary enclosures shall be submitted to and approved in writing by the Planning Authority, prior to its installation on the site. Thereafter the means of enclosure of the parts of the east and west boundaries of the site with the supermarket service/delivery yard and the Council's Amenity Depot as so installed shall accord with the details so approved and shall be erected in its entirety and shall thereafter be retained and maintained in place unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of safeguarding the external amenity of the occupants of the care home hereby approved from noise from the supermarket operations and from the operations of the Council Depot.

- 11 Prior to the occupation of the hotel hereby approved the glazing units of the windows of the north, east and west facades as shown coloured red in Figure 2 of ITP Energised's Noise Report Ref 11154-002 of 13/07/18 docketed to this grant of planning permission shall be fitted with passive acoustic ventilators that provide minimum Attenuation of 33dB.

Such glazing specifications shall thereafter be retained in the windows of the north, east and west facades of the hotel hereby approved unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of protecting the internal amenity of occupiers of the hotel hereby approved from noise associated with road traffic.

- 12 Details of the location, design and rating of any plant and equipment associated with the operation of the hotel and care home hereby approved shall be submitted to and approved in writing by the Planning Authority prior to its installation in the development hereby approved.

Where possible, all plant and equipment shall be located within the hotel or care home buildings.

The design and installation of any plant and equipment used in association with the operation of the hotel or care home hereby approved, shall be designed and located so that any noise emanating there from shall not exceed noise rating curve NR20 at any octave band frequency between the hours of 23:00 - 07:00 and noise rating curve NR25 at any octave band frequency between the hours of 07:00 - 23:00, when measured within any bedroom of the care home hereby approved. Noise measurements shall be taken with the windows open at least 50mm.

Reason:

To safeguard the amenity of the occupants of the care home hereby approved from noise associated with plant and equipment.

- 13 Other than to facilitate the formation of the vehicular and pedestrian accesses hereby approved in accordance with Condition 4, the natural rubble stone wall of the north (roadside) boundary of the site shall be retained at its existing height and in its existing form unless otherwise approved in writing by the Planning Authority.
- The stonework of any new length(s) of north (roadside) boundary wall associated with the formation of the vehicular and pedestrian accesses hereby approved shall match as closely as possible the stonework of the existing north (roadside) boundary wall in its colour, texture, coursing, and pointing,
- Reason:  
To safeguard the contribution the boundary enclosure makes to the character and appearance of the area.
- 14 Prior to the commencement of development on the site, full details of the proposed Sustainable Drainage System (SuDS) for the development 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, if relevant.
- Thereafter, the approved details shall be implemented as approved.
- Reason:  
To ensure that the final SuDS design complies with Sewers for Scotland 4 (as revised) and can be vested by Scottish Water in the interest of flood prevention, environmental protection and the long term amenity of the area.
- 15 Other than the fourteen trees on the north (roadside) boundary of the site, the four trees on the west boundary of the site and the short length of beech hedging located towards the eastern side of the site that are to be removed, as detailed on drawing no. 1161/03 and in the Tree Survey and Arboricultural Impact Assessment (August 2018 - Rev A) docketed to this grant of planning permission, all other existing trees on the application site shall be retained and shall not be damaged or uprooted, felled, lopped or topped without the prior written consent of the Planning Authority.
- Reason:  
In order to ensure the retention and health of trees or shrubs on and adjacent to the application site which are important to the landscape character of the area.
- 16 A method statement, supported by an arboriculturist, detailing the installation and specification of the continuous tree root barrier and new tree planting along the southern half of the west boundary of the site with the cemetery shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development. Thereafter, the method statement as so approved shall be implemented unless otherwise agreed in writing by the Planning Authority.
- An arboriculturist shall be retained on site to supervise the installation of the continuous tree root barrier and tree planting operations in accordance with the approved method statement. A detailed report with dated photographic evidence showing the installation of the full length of tree root barrier prior to backfilling, and on completion of backfilling, shall be submitted to the Planning Authority no more than 14 days from the completion of such works.
- Reason:  
In order to ensure the implementation of landscaping in the interests of the character and appearance of the area.
- 17 All tree works, including felling, planting and protection of the existing trees of the site shall be carried out in accordance with the Tree Survey and Arboricultural Impact Assessment (August 2018 - Rev A) carried out by Brindley Associates docketed to this grant of Planning Permission, and including the requirements of Conditions 16 and 19, unless the Planning Authority agrees to a variation.
- All tree planting comprised in the Tree Survey and Arboricultural Impact Assessment (August 2018 - Rev A) and the Planting Notes and Landscape Maintenance and Management Proposals February 2019, and as shown on drawing nos. 1161/03 Rev B and 1161/103 Rev A, both docketed to this grant of Planning Permission, and as required by Conditions 16 and 19 shall be carried out in

the first planting and seeding season (October - March) following the completion of the either the hotel or care home buildings hereby approved or the occupation of either of them, whichever is the sooner.

In the event that any such new tree(s) and shrub planting or any existing trees or plants die, are removed, or become seriously damaged or diseased they 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 retention of and health of trees or shrubs on the application site which are important to the landscape character and amenity of the area and to ensure the implementation of landscaping in the interests of the character and appearance of the area.

- 18 No development shall take place on the site until temporary protective fencing has been erected and installed and confirmed in writing by the Planning Authority to protect the retained trees on the eastern and western boundaries of the site. The temporary protective fencing shall be erected in the positions shown for it on drawing no. 1161/03 and in accordance with the details for it set out in the Tree Survey and Arboricultural Impact Assessment August 2018 Rev A, both docketed to this grant of planning permission, unless otherwise approved in writing by the Planning Authority.

The temporary protective fencing shall comprise Heras, or similar approved, weld mesh enclosed panels joined together with a minimum of two anti-tamper couplings, and supported on preformed weighted footings, stayed and fixed into the ground to withstand impact from machinery and access into the construction exclusion zone, in accordance with British Standard BS5837: 2012 "Trees in relation to design, demolition and construction". The temporary protective fencing shall be 2.3 metres in height, erected prior to works commencing, kept in good condition through the works and shall be retained on site fully intact through to the completion of the site development. The position of this temporary protective fencing shall be outwith the root protection area (RPA) as defined by BS5837:2012 for the existing retained trees.

All weather notices shall be erected on the fencing referred to in paragraphs 1 and 2 of this condition with words such as "Construction exclusion zone - Keep out" and the fencing shall remain on site and intact through to completion of the development.

Within the fenced off areas creating the construction exclusion zones the following prohibitions shall apply:-

- No vehicular or plant access;
- No raising or lowering of the existing ground levels;
- No mechanical digging or scraping;
- No storage of temporary buildings, plant, equipment, materials or soil;
- No hand digging;
- No lighting of fires; and
- No handling, discharge or spillage of any chemical substance, including cement washings.

Planning of site operations shall take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees.

Reason:

In order to ensure the protection of the trees within and adjacent to the application site in the interests of safeguarding the landscape character of the area.

- 19 Within the first planting and seeding season (October - March) following the completion of the either the hotel or care home building hereby approved or the occupation of either of them, whichever is the sooner, the landscape planting of the site shall be carried out in accordance with the landscape planting details shown on drawing nos. 1161/03 Rev B and 1161/103 Rev A docketed to this grant of planning permission, unless the Planning Authority agrees in writing to any variation.

In the event that any such new tree(s) or shrub planting or any existing trees or plants of the landscape planting scheme for the site, die, are removed, or become seriously damaged or diseased they 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 retention of and health of trees or shrubs on the application site which are



important to the landscape character and amenity of the area and to ensure the implementation of landscaping in the interests of the character and appearance of the area.

20 All demolition and construction works associated with the development hereby approved shall be carried out in accordance with the following unless otherwise approved in writing by the Planning Authority:-

- If evidence of Bats is discovered at any time during demolition works, then works shall halt immediately and advice shall be sought from Brindley Associates Ltd and/or Scottish Natural Heritage prior to works commencing on the site;
- The site works shall be undertaken outwith the active time of day for Bats (i.e. start no earlier than 2 hours after sunrise and cease no later than 2 hours prior to sunset);
- Any temporary lights used during demolition or construction works associated with the development hereby approved shall be fitted with shades to prevent light spillage outside the working area and any temporary light(s) shall not illuminate the surrounding tree lines as lighting can affect wildlife commuting and foraging;
- If works at the site do not commence prior to 26/06/2019 then a further Bat Activity survey shall be commissioned for completion during the bat activity season to ascertain the current situation regarding Bat Activity and any recommended remediation shall be carried out in accordance with that updated Bat Activity survey;
- If works at the site do not commence prior to 12/10/2019 then a further Bat Roost Assessment survey shall be commissioned for completion during the bat activity season to ascertain the current situation regarding Bat Roosts and any recommended remediation shall be carried out in accordance with that updated Bat Roost Assessment survey;
- Due to the presence of suitable nesting habitat, it is recommended, if required, that the site trees, scrub and buildings are worked upon outside of the bird nesting season (March to September, inclusive). Where this is not possible, and works are due to take place between March to September, then nesting bird checks should be undertaken by a suitably qualified ecologist, immediately prior to the tree, scrub or demolition works commencing. The results of each check are valid for three days including the date of the survey, after which further checks will be required to ascertain that the situation with regards to nesting birds has not changed;
- No works shall occur to the site buildings that would damage or destroy an active nest. Active nests can be found in any month of the year. An inspection should be undertaken by a suitably qualified ecologist using a ladder or cherry picker, immediately before works commence on the existing site buildings to establish the existence of any active nests. In the event of an active nest(s) being found, works should cease until any young have fledged the nest; and
- If works at the site do not commence prior to 30/05/2019 then a further Preliminary Ecological Appraisal shall be commissioned to ascertain the current situation regarding protected species and any recommended remediation shall be carried out in accordance with that updated Preliminary Ecological Appraisal.

Reason:

To ensure the protection of European protected species from significant disturbance arising from the demolition and construction associated with the development hereby approved.

21 The care home hereby approved shall be occupied only as a care home or nursing home under Class 8(a) or 8(b) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended, reviewed or revoked) and shall only be occupied by residents for the provision of residential accommodation and care to people in need of: (i) personal care including the provision of appropriate help with physical and social needs or support and (ii) medical care and treatment.

Reason:

To restrict the occupancy of the care home hereby approved to that which is applied for.

22 All new drainage and underground services installed on the site in association with the development hereby approved that would be within the root protection area of any existing or new tree or shrub shall be installed with a root barrier or shall be designed to be resistant to root intrusion so as to give as much available land to allow the tree(s) to fully establish, unless otherwise approved in writing by the Planning Authority.

Reason:

In order to ensure the retention of and health of trees or shrubs on the application site which are important to the landscape character and amenity of the area and to ensure the implementation of landscaping in the interests of the character and appearance of the 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:** Tuesday 26 March 2019  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

**5**

---

*Note - this application was called off the Scheme of Delegation List by Councillor Hampshire for the following reasons: This is a compact site with housing in close proximity. I have concerns about overlooking and loss of trees. I think the Planning Committee should look at this site before determining this application.*

Application No. **18/01319/P**  
Proposal Erection of 1 house and associated works  
Location **Ashfield House  
Countess Road  
Dunbar  
East Lothian  
EH42 1DZ**  
Applicant Mr Gregor and Mrs Wendy Morrison  
Per JM Planning Services  
RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

The application site comprises of an area of land that is currently part of the garden ground of the residential property of Ashfield House, Countess Road, Dunbar. The site is within a Town Centre Area as defined by Policy TC2 of the East Lothian Local Development Plan 2018. It is also within the Dunbar Conservation area and within the Dunbar II Historic Battlefield.

There are a number of trees on the site; there are no Tree Preservation Orders on or adjacent to the site. There is a shed erected in the north west of the site and some children's play equipment located within the southern area.

To the north, the site adjoins the residential property of Ashfield House, which is an L-shaped single storey building positioned at the corner of the main Countess Road and a spur to the south. Ashfield House has few windows on the north elevation, with the front elevation and garden ground to the south and additional garden ground to the east of the property. Although the more formal garden area is next to the house, the property's

garden does extend south to encompass the whole application site.

The application site is bounded to the west by a public road, which is a spur from Countess Road, and from which there is vehicular access to Ashfield House. The public road slopes down towards the south and narrows under a railway bridge, before reaching a small area of hard standing next to a play area. The road then becomes a cycle and footpath. It is understood that one house on Retreat Crescent does still have vehicular access rights along this pathway. The road to the west of the site is at a significantly lower level than the majority of the application site, with a random rubble stone retaining wall approximately 1.5 to 3 metres high bounding it. On the opposite side of the road is a detached single storey property with accommodation in the roofspace (93 Countess Road) which sits slightly higher than the road. There is no footway on either side of the road south of the accesses to the existing properties at Ashfield House and 93 Countess Road and no footpath immediately to the north of the Ashfield House access.

To the south, the site is bounded by the platform of Dunbar Railway Station, beyond which is a main railway line. The level of the platform is significantly lower than the site and separated from it by a high, random rubble stone wall.

The east of the site adjoins the residential development at Kings Court. The application site shares an eastern boundary with the rear garden of 15 Kings Court, the areas accommodating the underground SuDS feature for the site and the rear garden of 14 Kings Court. Both 14 and 15 Kings Court are two storey properties. A timber fence approximately 1.8 metres in height defines the boundary of the site to the east.

The current application site and the area of land to the east was allocated in the East Lothian Local Plan 2008 for a mixed development of housing and car parking. In September 2013 a planning application (Ref:13/00719/P) was submitted for a residential development of 17 detached houses, including associated roads and landscaping on the site. The application site did not include the current application site. Application 13/00719/P was refused by East Lothian Council Planning Committee in May 2004. The reason for refusal was that the proposed development did not include for the provision of the development of a car park and was therefore contrary to Proposal H10 of the adopted East Lothian Local Plan 2008. In December 2004 the application was granted at appeal (Ref: 000071626-001). The sections submitted with this application do not show the level differences which now exist between the house plot, which is now 14 Kings Court, and the adjacent land which is the subject of the current application.

In July 2016 planning permission (Ref: 15/00994/P) was granted for the erection of 4 flats on plot 6, changes to some house types and their position and associated works, as changes to the scheme of development the subject of planning permission 13/00719/P. The permission has been implemented and the houses at 14 and 15 Kings Court are occupied.

In May 2017 planning permission (Ref: 17/00224/P) was refused for the erection of 1 house, a shed and associated works on the application site.

The reasons for refusal were:

“1) The house would be of a scale and design which would result in a cramped form of infill development and would constitute overdevelopment of the application site. It would appear overbearing and incongruous on the prominent site and would have a detrimental visual impact on the area. It would be contrary to Policies DP2 (Design) and DP7 (Infill, Backland and Garden Ground Development) of the adopted East Lothian Local Plan 2008.

2) The proposed development would result in the removal of all trees within the site which at present provide an established setting and attractive feature on this approach to the town centre. Although some replanting is proposed, this would not adequately compensate for the loss of the mature trees. The merits of the proposed development do not outweigh the detrimental impact that the loss of the trees would have on the visual and environmental amenity of the area. The proposal would be contrary to Policies DP14 (Trees in and Adjacent to Sites) and NH5 (Protected Trees) of the adopted East Lothian Local Plan 2008.

3) The proposed development would result in a large, incongruous building, elevated above the existing street level. The building and the loss of the existing trees on the site would have a detrimental impact on the character and appearance of Dunbar Conservation Area and would be contrary to Policy ENV4 of the adopted East Lothian Local Plan and Scottish Planning Policy: June 2014”.

In October 2017 planning application (Ref: 17/00946/P) was submitted for the erection of 1 house and associated works on the site. The application was withdrawn in January 2018 before it was determined.

Planning permission is now sought for the erection of a house and associated works within the garden ground of Ashfield House.

The following have been submitted in support of the application:

- 1) Acoustic report (November 2018)
- 2) Report on Tree Condition (March 2019)
- 3) Construction Method Statement (March 2019)
- 4) Design statement (March 2019)
- 5) Planning Statement (December 2018)
- 6) Structural Feasibility Report (November 2018)

Amended drawings and an amended tree report, design statement and construction method statement have been submitted since the submission of the application.

The proposed house would be 2 storeys in height, comprised of a ground floor living area and kitchen, with 3 bedrooms at first floor level. It would be some 15 metres long and 8 metres wide, with a curved western elevation. It would have a mono-pitched roof, 5.2 meters at the east side rising to 6.2 metres at its highest point on the west side. The sloping roof would be clad in zinc with standing seams. A flat ‘green’ roof section, surfaced in sedum is proposed on the west side of the building. The walls would be a mixture of timber cladding and smooth render.

The east elevation would have two windows. Both would serve hallways and are proposed to be glazed with obscured glass. There would be windows on the north and south ends and the main windows on the west elevation. The proposed house would be approximately between 1.8 and 2.6 metre from the eastern boundary, 4.5 metres from the west boundary and 8 metres from the southern boundary.

The proposal includes parking for two cars within the north of the site with a pedestrian access path leading to the proposed house. An air source heat pump is proposed on the south side of the property.

The applicant is proposing to retain all but two trees on the site, with two sycamores to be removed.

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 Development Plan 2018.

Policy 1B of the approved South East Scotland Strategic Development Plan (SESPlan) and Policies TC2 (Town and Local Centres), CH2 (Development affecting Conservation Areas), CH5 (Battlefields), DP1 (Landscape Character), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), NH5 (Biodiversity and Geodiversity Interests including Nationally Protected Species), NH8 (Trees and Development), T1 (Development Location and Accessibility), T2:General Transport Impact, NH13 (Noise) of the adopted East Lothian Local Development Plan 2018 and Supplementary Planning Guidance Cultural Heritage and the Built Environment 2018 are relevant to the determination of the application.

Also material to the determination of the application is Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development within a conservation area given in Scottish Planning Policy: June 2014.

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character and appearance of the conservation area should be treated as preserving its character and appearance.

Written representations from two parties have been received to the application. The main points of which are summarised below:

- \* Previous application 17/00244/P on the site was refused. The three reasons for refusal still apply to the current application;
- \* The residents will have to park in front of Ashfield House and walk the rest of the way to the new house, this will have detrimental impact on residents of Ashfield House;
- \* The plans for the parking area indicate 4 parking spaces plus a turning space which will result in a serious loss of privacy for us at 15 Kings Court, there has been no attempt to screen the parking area from number 15 Kings Court;
- \* Objection to car park with associated noise and pollution next to boundary fence compromising privacy of 15 Kings Court;
- \* This site is not suitable for the siting of a new home, it is too small and this would be over development of the area;
- \* There may be more pressure to remove the trees within the retained garden ground for Ashfield house, which would have an impact on Conservation Area;

- \* Although overgrown and unkempt the whole site contains a mature landscape/boundary setting. The proposals already require the removal of a number of existing trees as well as the unnecessary removal of much of the less substantial holly and yew trees and shrubs;
- \* Many of the mature Holly trees are not included on this current planning application. There are 3 Yew trees in the area earmarked for parking and only the smallest one is mentioned on the plans;
- \* The removal of the trees opens up the site and neighbouring properties to views from the rail station platform. This would be a compromise to the character and setting of the conservation area, a compromise to the setting and amenity of the proposed new building, and to the residents of Ashfield House and at 14 Kings Court;
- \* Concerns regarding the tree protection during building works in such a narrow plot, with the movement of tons of material and heavy machinery moving around the building area;
- \* Concerns over potential damage having already been made to tree number 3798 (mature sycamore) on the proposal and that any further work, of any nature around its root base would put the tree at great risk;
- \* There is no evidence that tree 3798 has been terminally damaged by building the house at 14 Kings Court;
- \* If tree 3798 is removed, there will be loss of privacy for garden of 14 Kings Court;
- \* Bats forage around the trees;
- \* Loss of privacy and amenity of neighbouring properties around site;
- \* The height difference between the application site and the ground floor of 14 Kings Court is significant. This means that both gardens are overlooked by neighbours. People in the garden of Ashfield house can look into the house of 14 Kings Court;
- \* Although the site is already garden ground the intensification of the use of the site will increase the chance of conflict and therefore affect the amenity of all concerned;
- \* A house in this site and all those who would use it daily, including workmen, gardeners, delivery people, and the residents, would be able to see directly into our main bedroom of 14 Kings Court;
- \* The overlooking issues were not apparent when the neighbouring house at 14 Kings Court was purchased;
- \* The garden area to the south of 14 Kings Court is smaller and overshadowed by 13 Kings Court and will have an extension granted by (18/01120/P). The garden to the west will be the principle amenity area;
- \* The proposed hedge planting will take time to establish and will be in effectual due to species and maximum growth height. A screen of approx. 10 would be required due to level differences;
- \* Loss of light to garden of 14 Kings Court. The addition of another property and tall planting or fencing this would require to mitigate the privacy issues created by this

proposal will result in a huge loss of amenity, a cramped and overcrowded look and feel to the area which is not in keeping with the aims of the conservation area in Dunbar;

- \* The amended plans show the loss of more trees, replacement trees take time to establish;
- \* Any hedging or planting would need to be further into the site so the residents at 14 Kings Court are not faced with a wall of plants close to the kitchen window;
- \* The area of garden to south of the southeast corner of the proposed house would not be screened. This is most likely to be the usable garden area for future residents;
- \* There will be a loss of privacy for the house at 93 Countess Road;
- \* The proposed house has a flue protruding from the roof. Kings Court will be effected by smoke exiting the building;
- \* The proposed zinc roof is not an appropriate addition to the site or the conservation area;
- \* Concern for the drains from Kings Court that cross the plot, due to the movement of heavy building equipment;
- \* Proposal is contrary to: NH8, CH2, DP1, DP2, DP7;
- \* Concern regarding the high historic wall on the lane from Countess Road with reference to potential movement due to the building works; and
- \* Removing mature tree 3798 may cause damage to the property at 14 Kings Court.

In terms of the last two points, a structural feasibility report has been submitted, which avers that a house could be safely built on the site taking into account existing trees and the constrained access. On this matter a building warrant would be required for the construction of the proposed house. The tree roots under the property and garden of 14 Kings Court have been built over and subject to level changes when the house was constructed and therefore would not be expected to be functioning in this area. The roots themselves would not be removed from under the house. The other points raised are discussed below. Any damage caused would be a civil matter to resolve.

There is no evidence to suggest that the proposed development would damage drains from Kings Court that cross the plot. Any damage caused would be a civil matter to resolve.

Although the site is currently part of the garden ground of Ashfield House, the area is defined as being within a town centre as defined by Policy TC2 of the East Lothian Local Development Plan 2018. This policy states that residential uses may be acceptable, particularly in a backland location. Proposals that would have a significant environmental impact, particularly on housing, will not be permitted. Therefore, the principle of a house on the site is acceptable provided other policies are complied with and it would not have a significant environmental impact.

The site is within the Battle of Dunbar II Historic Battlefield. Due to the already development nature of the site and the surrounding area the proposal would not affect key landscape features of the battlefield and would comply with Policy CH5 of the ELLDP.



The proposed house would utilise the existing vehicular access from the public road. There is sufficient room within the site to accommodate two parking spaces to serve the proposed house and 2 for the existing Ashfield House and sufficient room to turn and leave the site in a forward gear. The applicant is proposing to widen the footway to the north of the existing access to improve visibility. The Council's Road Services confirm that the arrangements for site access and on-site parking are of an acceptable standard of provision and raise no objection to the proposed development. A condition can be imposed to ensure that the footway is widened prior to the occupation of the house. Subject to this planning control, the proposal is consistent with Policies T1 and T2 of the ELLDP.

With respect to infill, backland and garden ground development, Policy DP7 states that, amongst other principles of development, it must, by its scale, design and density be sympathetic to its surroundings and not an overdevelopment of the site. The occupants of existing neighbouring development should experience no significant loss of privacy and amenity and occupants of any new development must also enjoy privacy and amenity, overdevelopment of the site will be unacceptable and landscape and boundary features important to the character of the area must be retained where possible.

Policy DP2 of the ELLDP, require that all new development must be well designed and integrated into its surroundings. The policies require that a building must be appropriate to its location in terms of its 'positioning, size, form, massing, proportion and scale'.

The site is in close proximity to a main railway line and an acoustic report has been submitted by the applicant. The report concludes that measures can be installed to ensure that noise levels do not exceed the guideline values suggested by the World Health Organisation for both daytime and night-time. They advise that vibration levels are predicted to be lower than the threshold value that would be likely to trigger adverse comments. The Council's Environmental Health Service raise no objection to the proposed development in terms of noise. It would be prudent that windows should be glazed with standard double glazing with trickle vents in accordance with the applicant's acoustic report. The Environmental Health Service advise that they do not anticipate any noise issues from the air source heat pump given its proximity to the noise source of the railway and the separation distance between the air source heat pump and the neighbouring property. On this consideration, and subject to the aforementioned planning control, the proposal complies with Policies NH13 and DP7 of the ELLDP.

The applicant had proposed a flue from a wood burning stove. The Environmental Health Service has raised concerns regarding the impacts of smoke, including the smell of smoke, arising from the proposed flue serving a wood burning stove upon neighbouring properties, in particular the occupier of 14 Kings Court. It is noted that the proposed flue terminates at low level and below the height of windows of neighbouring property at 14 Kings Court. In order for it to facilitate the adequate dispersal of smoke Environmental Health require the flue to terminate a minimum, above eaves level of the adjacent property at 14 Kings Court. Due to the level differences between the sites this would result in a very tall flue which would be likely to have a negative visual impact. Therefore, if approved a condition should be imposed stating that the flue is not approved, to protect the amenity of neighbouring properties.

On the matter of the impact of the house on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair. This recommends that at least half of relevant amenity ground should receive at least 2 hours of sunlight on 21 March. In this case the potential impact of the proposed house on the loss of sunlight to the garden to the east at

14 Kings Court has been assessed.

Application of the sunlight test on the proposed garden ground of the house at 14 Kings Court predicts that before 11am the proposed house will not cause any shadowing of the garden of 14 Kings Court, however, at this time there is overshadowing from the existing house and the house and approved extension to 13 Kings Court. At 11am and 12pm less than half of the western garden area and none of the southern garden areas are predicted to be overshadowed. After 1pm more than half the western part of the garden is predicted to be overshadowed, but none on the southern part of the garden. Therefore, the requirement that at least half of relevant amenity ground should receive at least 2 hours of sunlight on 21 March is met.

It should also be noted that this test was carried out without taking into account the significant level changes between the site and the adjacent garden. As the western section of the garden slopes up towards the house, the extent of overshadowing from the proposed development on the higher areas of garden would be expected to be less than predicted by the test.

It is noted that there is some shading from the existing trees on the application site and in the garden of 14 Kings Court, although a Sycamore is proposed for removal. However, this is not anticipated to be to such an extent as the erection of the proposed house to result in a significant loss of amenity from loss of sunlight. Taking all this into account, the proposed house would not result in an unacceptable loss of sunlight to neighbouring residential properties.

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

Due to the position and design of the proposed house, there would be no directly facing windows between it and neighbouring houses.

The potential for overlooking from the proposed house to the garden area of the existing house at 14 Kings Court must be considered. The proposed house would have one first floor window facing east from a hallway. The applicant has shown that this would be obscured. As the site is within Dunbar Conservation Area which is the subject of an article 4 direction, planning permission would be needed to change this. There would be one ground floor window from a hall which would be obscured and would also be screened by the existing fence and proposed hedging. The requirement for the two east facing windows to be obscure glazed could be secured by the imposition of a planning condition. Subject to this planning control, the proposed house itself would not result in unacceptable loss of privacy for neighbouring properties.

The impact of the proposal on the privacy and amenity of the garden ground and house of the existing property at 14 Kings Court from the use as garden of the proposed house must then be considered. It is a material consideration that the site is currently residential garden ground for Ashfield House, however, the area in which the proposed house is sited is some distance from Ashfield House and is not used as their main garden area, which is next to the property. It is understood that the area is used occasionally and by the family's children to play in. Indeed, an objector has raised this as an existing issue due to the intervisibility between the gardens. It is also the case that the development of a house on the site would be reasonably expected to result in an increase in the

frequency and nature of the use of the garden area, which would be next to the proposed house and which would serve as its main outside amenity area.

The garden ground serving the new house would be at a lower level than that of the garden ground serving the existing house of 14 Kings Court. Due to the angle of the existing house, the angle at which a person has to look up to the existing neighbouring property, the distance between it and the garden, and due to the proposed landscaping and size of the windows, there would not be unacceptable loss of privacy to rooms inside the house at 14 Kings Court from people using the garden of the proposed house.

The ground level at the base of the existing house would be approximately 4.5 metres above the ground level of the proposed house and its surrounding garden area. The garden area to the west and south of the house slope significantly down to the boundary fence. Therefore, when in the higher areas of the garden the existing 1.8 metres timber fence provides less screening than in the lower area. The proposed house would result in some screening of the western garden of the existing house from those using the garden to the south and southwest. New hedge planting is proposed along the eastern boundary of the proposed house and the shared boundary fence. This would not be of a sufficient height to provide screening above the height of the fence and any planting would take time to establish. However, it would reduce the visibility through the fence in this area and is likely to lessen the use within this part of the garden. The cumulative effect of the existing fence, the trees and shrubs to be retained on site and the angle at which users would be looking would mean that the garden of the existing house would not suffer significant loss of privacy and amenity.

There would be no significant loss of privacy for other neighbouring properties due to the location of the proposed house. The formalisation of parking areas on land to the west of the rear garden of 15 Kings Court would not have a significant effect on the amenity of the occupants of Ashfield House or that of the nearby houses of Kings Court. This area is part of the garden area for Ashfield House and there is a timber fence along the end of the garden. This would not result in a significant increase in the intensity of the use of the area and new hedging is proposed between the rear of the parking and the boundary.

The proposed house would be approximately 3.3 metres higher than the existing timber boundary fence with 14 Kings Court. It would be set back from the boundary by approximately 2 metres. Due to the height of the proposed building, its position and the size, level differences and position of the neighbouring garden, the proposed house would not have an overbearing impact on the neighbouring property.

In conclusion, and subject to the aforementioned planning controls, the proposed house and its associated access, parking and garden ground would not have an unacceptable impact on the privacy and amenity of the neighbouring property of 14 Kings Court, or on that of any other neighbouring property.

It must then be considered if the proposed house would have sufficient privacy and amenity.

The house at 14 Kings Court is on a corner site and as such has areas of amenity garden ground to the west and south of it. The windows in the west elevation of the existing house at 14 Kings Court would not directly overlook the private amenity ground of the proposed house. There are first floor windows from bedrooms in the centre and right side of the south elevation. There is also a bathroom window on the left side. Ground floor windows are from the kitchen, on the left side of the elevation, and the living room on the right side and patio doors open onto a small paved area in the centre. These would look towards part of the garden ground of the proposed house. The first floor bedroom

windows would be approximately 9 metres or more from the garden boundary and the other is from a bathroom. However, although this would normally satisfy the guideline distance, the levels differences between the site and the adjacent property must be taken into account. On this matter, the ground floor kitchen window on the south elevation of 14 Kings Court is higher than the top of the boundary fence and is less than 9 metres from the boundary. Although the normal window to boundary distance would not be met at this point, the residents of the proposed house would still have amenity in the form of an area of garden ground which would not be directly looked and shrubs and the existing fence which would provide further screening and break up views.

As discussed above, residents of 14 Kings Court using their garden would not be fully screened by the 1.8 metre high fence in most of their garden. The position of the proposed house would screen much of the proposed garden area when looking south from the western area of the garden for 14 Kings Court. The existing 1.8 metre fence and shrubs on the site do provide some screening when within the application site. Policy DP7 does not require that garden areas are completely screened but that they have 'privacy and amenity'. Given the proposed house would have some garden ground with a reasonable level of privacy and amenity, it would comply with Policy DP7 in this regard.

Policies DP1, DP2 and DP7 require that buildings are appropriate for their setting and respect existing landforms and features. The house would be positioned some 4.5 metres off the west boundary at its closest point. It would project approximately 6 metres above the retaining wall to the west, when viewed from the public road. The 2 storey section would be set back from the single storey timber clad part of the building on the west side, which would break up the mass of the building. This design, and an appropriate colour of render for the upper section, would reduce the visual impact of the building and the overall massing and help to integrate it into its treed setting. The house would sit lower than the existing house to the west which would be visible behind it. Therefore, the house would be of a scale and design that is appropriate for the site. The specific issue of trees on the site is discussed further below.

Policy NH8 of the East Lothian Local Development Plan 2018 seek to protect trees through the planning process. It states that development affecting trees, groups of trees or areas of woodland will only be permitted where any tree, group of trees or woodland that makes a significant positive contribution to the setting, amenity of the area has been incorporated into the development through design and layout or in the case of individual trees or groups of trees, their loss is essential to facilitate development that would contribute more to the good planning of the area than would retaining the trees or group of trees.

Policy CH2 of the adopted ELLDP seeks to protect conservation areas and states that all new development within them, 'must be located and designed to preserve or enhance their special architectural or historic character'.

As discussed above, the design of the proposed house is of a scale and form which is appropriate for the site. Although it is of a modern design, the materials, including zinc, would be of a high quality and in keeping with the treed site. The house itself would not have a detrimental impact on the Conservation area. The potential impact on the trees on the site must then be considered.

The Dunbar Conservation Area Statement within the adopted Supplementary Planning Guidance on Cultural Heritage and the Built Environment 2018 observes that, 'Trees are not a principal feature in Dunbar town centre but where groups of mature trees exist they make an important visual impact. Mature treed gardens exist at the manse on Bayswell Road, the rectory at Lawson Place, the Priory at Abbeylands and the field to the west of

Station Road. These trees are important to the landscape setting of Dunbar Conservation Area and should not be removed to facilitate development’.

The Conservation Area Statement notes the contributions that the trees on the site make to the character of the Conservation Area. The site is located at the south western edge of the Dunbar Conservation area, with Ashfield House the first residential property you come to within the designation when approaching from the west along Countess Road, which is a main route into the town. The site is important in establishing the character of the Conservation Area and its historic context. The current trees provide a visual buffer which softens the appearance of the new housing development to the east and the impact of the retaining wall along the side of the public road.

The applicant has submitted a tree survey, a drawing showing the Tree Protection Areas and a Construction Method Statement detailing how the proposed house would be built whilst protecting the trees to be retained.

The applicant proposes to retain most trees on site apart from a sycamore in the south west corner (identified as 3792 in the tree survey) and one on the boundary with 14 Kings Court (identified as 3798 in the tree survey). Sycamore 3792 has been evaluated as in a ‘fair’ condition with restricted rooting and tree 3798 is evaluated as in a ‘fair’ condition with minor dead wood. Trees 3793 and 3794, a sycamore and elm respectively, have been evaluated as poor but are to be retained to provide screening whilst replacement tree establishes in the south west corner of the site. A small leaved lime and a hornbeam are to be planted to replace the tree in the south west corner. The position of the house has been altered slightly to move it away from the trees and shrubs along the western boundary of the site.

The Council’s Landscape Officer has advised the drawings and information submitted by the applicant have addressed previous requirement for information and details of the proposed development. She notes that the replacement tree planting to the southwest corner will mitigate for the loss of the two sycamore trees being removed in a more planned way and provide a new strengthened tree edge to the west side of the Conservation Area. She does note that she remains concerned over possible future requests to fell trees on the site due to the limited unshaded garden ground provided by developing this site and regarding the development on the site and over possible damage to the retained trees due to the constrained access and limited site working space and storage area outwith the root protection areas of the trees even with the suggested conditions and Tree Protection Areas drawing. To address this she has suggested a number of conditions, including arboricultural monitoring of the construction works. Therefore, the applicant has shown that the majority of trees can be retained on the site and the landscaping setting of this part of the Dunbar Conservation Area preserved in compliance with Policies NH8 and CH2 of the ELLDP.

The Council’s Biodiversity officer has advised that there is unlikely to be bats roosting on the site due to the lack of suitable features in the trees. They have noted that mature trees provide valuable habitat and the removal of 2 mature sycamore trees would reduce biodiversity. Scottish Planning Policy reiterates the duty that Planning Authorities have under the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity. The current proposal is to plant a replacement hornbeam and small-leaved lime on the site in addition to native hedging. Therefore, there would not be a significant net loss of biodiversity on the site and the proposal would comply with policy NH5 of the ELLDP.

In summary, the site is constrained and on a very sensitive location. However, the applicant has demonstrated that the house could be built while protecting the majority of

trees on the site and protecting the character of the Dunbar Conservation Area. The future residents would have sufficient amenity and neighbouring properties would not suffer a significant loss of privacy and amenity. Therefore, taking all of the above into consideration and with appropriate conditions, the proposal complies with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), with Policies DP1, DP2, DP7, NH8, NH13, T1, T2 and CH2 of the adopted East Lothian Local Development Plan 2018 and with both Scottish Planning Policy: June 2014 and Supplementary Planning Guidance Cultural Heritage and the Built Environment 2018.

#### CONDITIONS:

- 1 Notwithstanding the approved drawings, the flue from a wood burning stove on the house is not approved and shall not be installed.

Reason:

To protect the residential amenity of neighbouring properties from smoke and odour.

- 2 Prior to the commencement of development on site, 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 position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s).

The levels shall be shown in relation to an Ordnance Survey datum or local datum from which the Planning Authority can take measurements and shall be shown on the setting out drawing. A minimum of three benchmarks must be provided relating to fixed points outwith the development site

- c. the ridge height of the proposed house shown in relation to the finished ground and floor levels on the site.

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

Reason:

To ensure that the proposal is implemented in accordance with the approved plans and allow the Planning Authority to control the development in the interests of the visual amenity of the area.

- 3 Prior to the commencement of any development on the application site, temporary protective fencing in accordance with Figure 2 of British Standard 5837\_2012 "Trees in relation to design, demolition and construction" and ground protection, all as detailed in section 1 of the Construction Method Statement dated March 2019 and docketed to this permission, has been installed, approved by the arboriculturist and this approval confirmed in writing by the Planning Authority.

The fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing must be as indicated on the drawing 'Tree Protection Areas' numbered 06 rev E docketed to this planning permission and shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees.

Clearly visible all weather notices shall be erected on the protective fencing. The notices shall read: "Construction exclusion zone - Keep out". Within the fenced off areas creating the Construction Exclusion Zones the following prohibitions must apply:-

- \_ No vehicular or plant access
- \_ No raising or lowering of the existing ground level
- \_ No mechanical digging or scraping
- \_ No storage of temporary buildings, plant, equipment, materials or soil
- \_ No hand digging
- \_ No lighting of fires
- \_ No handling discharge or spillage of any chemical substance, including cement washings

Planning of site operations should take sufficient account of wide loads, tall loads and plant with

booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees.

The temporary protective fencing shall be retained in its approved position for the period of construction on the site unless otherwise approved in writing by the Planning Authority.

Reason

In order to form Construction Exclusion Zones around retained trees and protect retained trees from damage.

- 4 All construction works on site shall be carried out in accordance with the Construction Method Statement March 2019 docketed to this permission.

Reason:

To ensure that the development is carried out as proposed to protect the trees on site in the interest of biodiversity and the character of the Dunbar Conservation Area.

- 5 A person, who through relevant education, training and experience, has gained recognised qualifications and expertise in the field of trees in relation to construction, shall be employed to monitor works with the Root Protection Areas of trees on the site including the installation of the temporary protective fencing and ground protection in accordance with the approved construction method statement and drawing 'Tree Protection Areas' numbered 06 rev E.

Prior to the commencement of development on the application site, details of the appointment of such a person shall be submitted and approved in writing by the Planning Authority. Thereafter, the person shall be retained for the period of construction on the site unless otherwise agreed in writing with the Planning Authority.

During construction works, an arboricultural inspection of the site shall be undertaken at least once a month monitoring compliance with the approved Construction Method Statement and detailing the current site and tree conditions. The findings of the inspection shall be detailed in a report which shall be submitted to the Planning Authority on the 15th of the month (or other date to be agreed) and approved in writing by the Planning Authority. If compliance with the approved Construction Method Statement is not demonstrated in a report then works shall cease on site until agreed in writing with the Planning Authority.

Reason:

To ensure the retention and maintenance of trees which are an important feature of the area.

- 6 Any surfacing within the Root Protection Areas shall be carried out in strict accordance with section 7.4 of BS5837: 2012 "Trees in relation to design, demolition and construction".

The path to the house hereby approved shall be constructed in accordance with the Proposed site / Landscaping Plan 05 Rev E docketed to this permission, unless otherwise agreed in writing with the Planning Authority.

Reason:

To ensure that tree roots are suitably protected in the interests of tree retention and the character of the Dunbar Conservation Area.

- 7 Prior to the commencement of development on site, full details of the footpath widening to the north of the access to Ashfield House shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the detail shall be implemented as approved prior to the occupation of the house hereby approved.

Reason:

To provide safeguarded pedestrian access to the site and improve visibility for drivers egressing the site in the interest of road safety.

- 8 Prior to their use on site, full details including colours, of the materials to be used to externally finish the house hereby approved shall be submitted to and approved in writing by the Planning Authority.

Reason:

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

the character of the Dunbar Conservation Area.

- 9 The house hereby approved shall not be occupied unless and until the two windows in the east elevation of it are obscurely glazed in accordance with a sample of the obscure glazing to be submitted to and approved by the Planning Authority. The obscure glazing of those windows shall accord with the sample so approved and thereafter they shall remain obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

In order to safeguard the privacy and amenity of the neighbouring residential property to the east.

- 10 Windows on the house hereby approved shall be double glazed with standard non-acoustic trickle vents.

Reason:

To comply with the recommendations of the acoustic report submitted with application to protect future residents from noise from the nearby train line.



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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 26 March 2019  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

6

---

*Note - this application was called off the Scheme of Delegation List by Councillor Gilbert for the following reasons: Although the land is designated for business use part of the site has already been developed and the remaining land seems unlikely to be used for business purposes. Affordable rent would seem an obvious alternative.*

Application No. **18/01344/P**  
Proposal Erection of 4 houses, 22 flats and associated works  
Location **Land West Of Johnnie Cope's Road  
Mid Road  
Prestonpans  
East Lothian**  
Applicant LAR Housing Trust  
Per Holder Planning  
RECOMMENDATION Application Refused

#### PLANNING ASSESSMENT

The application site is an area of land some 0.34 ha in size located at the southeast corner of Mid Road Industrial Estate, towards the southern edge of Prestonpans. The site is comprised of the southern half of the former IQ Textiles factory and its associated land.

The former IQ Textiles factory building has been demolished and the site cleared.

The site, is the subject of Policy EMP1 of the adopted East Lothian Local Development Plan 2018.

On 23 May 2013 planning permission in principle (Ref: 11/00851/PP) was granted for a development on the whole site of the former IQ Textiles factory and its associated land of a Class 1 retail store with car parking, servicing, landscaping and other associated works.

The three-year time period for the submission of matters specified in conditions of planning permission in principle 11/00851/PP has expired and thus it is no longer extant.

In May 2015 planning permission 15/00138/P was granted for the erection on the northern part of the former IQ Textile factory site of 4 commercial units comprising 1 retail unit (class 1 use), 1 veterinary surgery (class 2 use), a cafe/restaurant (class 3 use), a hot food takeaway (sui generis use) and for associated works.

Planning permission 15/00138/P has been implemented and the commercial units are in place. Two of the units are occupied – The retail unit (Cooperative supermarket) and the vets practice – and are operational. The remaining 2 units are vacant although one has recently been taken off the market. This new development is known as the Northfields Retail Area.

The application site is bounded to the north by the northern half of the former IQ Textiles factory site and its associated land which now has the Northfields Retail Area located on it. To the east of the site is Johnnie Copes Road with residential properties beyond, to the south is the East Coast Main Line railway with car park beyond. To the west of the site is the Mid Road industrial estate.

Planning permission is now sought for the erection on the site of (i) a terrace of 4 houses, (ii) a largely two storey flatted building with accommodation in its roof space that would contain 22 flats, and (iii) associated works comprising the formation of parking spaces and hard and soft landscaping.

The proposed terrace of houses would be located on the western part of the site with their rear elevations aligned with the west boundary of the site and with frontages facing eastwards into the site. They would each be two stories in height to the ridge of their pitched roofs.

The proposed flatted building would have an inverted L shaped footprint with 2 similar sized “ranges that would be largely two storey in height (11.5m). One range would be orientated from east to west the other would be orientated north to south. Both ranges would be some 35m in length and some 12m in width with their front elevations facing into the site westwards and northwards respectively.

The houses and the flatted building would be finished with render of a type and colours to be agreed with the Planning Authority and the roofs clad with tiles of types to be agreed with the Planning Authority. Windows would be double glazed with white UPVC frames. Doors would be constructed of timber and finished in colours to be agreed with the Planning Authority. Solar PV panels would be located on the rear (south) facing roof slope of one of the ranges and on the front (west) facing roof slope of the other range.

All of the 22 flats and 4 houses are to be for mid market rent affordable housing. The proposed mix is to be 3 x 1 bed roomed flats, 19 x 2 bed roomed flats and 4 x 3 bed roomed houses.

A total of 27 car parking spaces would be provided for the development and secure storage for 22 cycles.

A Planning Statement submitted with the application states that the proposal would provide 22 flats and 4 houses which would be 100% mid market affordable housing of a similar design and layout to LAR’s successful project at Cockenzie Harbour. The development would provide much needed affordable housing in East Lothian on a brownfield site which has been derelict for a number of years. The site benefits from

being near to many local services and facilities being a short walk from both Prestonpans Primary School and Preston Lodge High School. It is also a short distance away from Prestonpans Health Centres as well as Prestonpans Community Centre. A local supermarket is located directly adjacent to the site. The site is less than 100m from Prestonpans train station which has frequent services to Edinburgh and there are also bus stops located on Preston Road and West Loan to the north. The sustainable location of the site would provide access to local services, facilities and employment and would also support local shops in the area.

To support the submission of the planning application a coal mining risk assessment, a site investigations report and a Report on Railway Sound have been submitted.

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 (SESPan) and the adopted East Lothian Local Development Plan 2018.

Relevant to the determination of the application are Policies 1B (The Spatial Strategy: Development Principles) and 2 (Supply and Location of Employment Land) and Policies EMP1 (Business and Employment Locations), HOU2 (Maintaining and Adequate 5 year effective housing land supply), HOU3 (Affordable Housing Quota), ED2 (Prestonpans Cluster Education Proposals), T1 (Development Location and Accessibility), T2 (General Transport Impact), T3 (Segregated Active Travel corridor), T32 (Transport Infrastructure Delivery Fund), DP2 (Design), DEL1 (Infrastructure and Facilities Provision), and NH8 (Trees and Development) of the adopted East Lothian Local Development Plan 2018.

Also material to the determination of this planning application is the Supplementary Planning Guidance (SPG) of the ELLDP 2018 on Affordable Housing. This supplements Policies HOU3: Affordable Housing Quota and HOU4: Affordable Housing Tenure Mix of the adopted East Lothian Local Development Plan 2018 and provides further information and detail on how the above policies of the ELLDP 2018 should be interpreted and applied.

Eleven representations have been received in support of the application all of which state that there is a need for affordable housing in this area and this development will provide more high quality affordable housing in a suitable location. All those letters of support are from existing tenants of other LAR properties.

One representation neither supporting nor objecting to the application has also been received. The matters raised in that representation are:

- \* There is a need for affordable housing in this area;
- \* The flatted building is very high; and
- \* Is there sufficient parking provided for the development?

Two letters of objection have been received to the application. The main grounds of objection are:

- Not all neighbours were notified;
- This is an overdevelopment of the site;
- Due to the height and size of the building it will cause loss of amenity to the occupants of neighbouring residential properties;
- There will be overlooking of neighbouring residential properties;

- Highway safety – heavy vehicles should not use the private road serving 1-4 Johnnie Cope's Road which has no pavement and is not the main route into the station;
- Concern over the suitability of the junction to cope with increased traffic numbers;
- Concern regarding heavy plant and lorries damaging gas supplies and interfering with foundations of nearby walls;
- The plans do not show the retention of mature trees or the privet and ivy fence along the east boundary;
- The construction of the building may damage the east boundary wall; and
- Inaccuracies within the supporting statements and application form.

All neighbouring properties within 20m of the application site were notified of the application on 7th January 2019. The application was also advertised within the local press on 11th January 2019. Therefore, the Council as Planning Authority has fulfilled its statutory obligations in the notification and advertisement of planning applications.

The inaccuracies in the applicant's supporting statement alluded to in the letter of objection in respect of missing address points do not materially affect the substance or the findings of the report.

If planning permission were to be granted a condition could be attached to any grant of planning permission to safeguard the retaining wall and ensure that its integrity was not compromised.

Prestonpans Community Council have objected to the planning application. The main grounds of objection are (i) that the development is too ambitious for the space, (ii) that the homes are very small and (iii) the delivery of affordable housing should not be used as justification for building terrible homes on unsuitable plots.

Whilst it is not essential to replicate existing building styles to build successfully in any given area, both national planning and development plan policy nevertheless state that in designing proposed new buildings developers should think about the qualities and the characteristics of places. The development should reflect its setting and local forms of building and materials. The aim should be to have buildings looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood

The area around the application is characterised by buildings of a variety of architectural forms and character. To the northwest is the mid road industrial estate which has a variety of industrial type buildings located on it. To the north of the site is the recently built Northfield retail Area which is within a large single storey flat roofed building. Between that retail area and the B1361 public Road (Gardiner Terrace) are 4 detached houses and a commercial garage with petrol filling station. Johnnie Copes Road bounds the site to the east with houses and Prestonpans train station beyond. The East Coast Rail line forms a robust boundary to southern edge of the site, beyond which is a car park.

The flatted building would be a large building that would be located in the southeast corner of the Mid Road Industrial Estate. It would be double the height of the single storey commercial building of Northfields Retail Area. In that position it would be prominent in views from Johnnie Copes Road and Prestonpans train station car park to the east and from Gardiner Terrace and Prestonpans Primary School to the northeast, from the car park on the southern side of the railway line and in longer distance views from Johnnie Copes road to the south. In those public views the residential character of the flatted building and terrace of would appear different to the mainly industrial/commercial nature of nearby buildings. However, the proposed flatted building and terrace of houses would not be inappropriate when seen in the wider context of an

area of varied character and mixed uses including residential use.

By virtue of this and of their size, materials, architectural form and appearance, the proposed flatted building, terrace of houses, new access road and car parking area, other hardstanding areas and landscaping would not appear harmfully incongruous or incompatible with the built form and character of this industrial/commercial area.

The application site is physically capable of accommodating the entire development, including satisfactory vehicular and pedestrian access and car parking, without resulting in an overdevelopment of it or increasing the density of development such that the established character of the area is harmfully altered.

The proposed flatted building, terrace of houses and associated works are acceptably designed for their place and are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policy DP2 of the adopted East Lothian Local Development Plan 2018.

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

The proposed flatted building and the terrace of houses would be positioned some 29m away from the nearest property to the east and some 60m away from the nearest residential property to the north. There are no residential properties to the south or west. Thus the proposed development would not allow for harmful overlooking of any neighbouring residential properties.

By virtue of their form, size and scale and given the distance away from neighbouring residential properties the proposed flatted building and houses would not allow for overshadowing or loss of daylight to those neighbouring residential properties.

The occupants of the flatted building and of the 4 houses would also enjoy sufficient privacy and amenity.

On the matter of amenity the Council's Environmental Protection Manager advises that he agrees with the findings of the report on Railway Sound submitted in support of the application that the proposed flatted block and 4 houses would not be subjected to unacceptable levels of noise generated from the adjacent rail line.

On those matters of amenity the proposal would not be contrary to Policy DP2 of the adopted East Lothian Local Development Plan 2018.

The landscape advice of the Council's Policy and Projects service is that the building alignment of the flatted building should be flipped which would give the southwest aspect better solar gain and would locate the parking to the rear of the building. However given that the planning assessment above is that the proposed development is acceptably designed for its place and is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DP2 of the adopted East Lothian Local Development Plan 2018 it would be unreasonable to insist on this.

The landscape advice of the Council's Policy and Projects also note that there is a

mature sycamore tree adjacent to the south west corner of the application site. If planning permission were to be granted a condition can be imposed to safeguard the health and vitality of the mature tree during the construction process. Subject to the aforementioned planning control the proposal is not contrary to Policy NH8 of the adopted East Lothian Local Development Plan 2018.

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

He advises that Prestonpans Primary school has sufficient capacity to accommodate the additional children arising from this development. However Preston Lodge High School does not have sufficient capacity. Thus he objects to the application on the grounds of lack of permanent capacity at that school. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of £103454 (£3979 per unit) towards the provision of additional school accommodation at Ross High School.

Policy T32 of the ELLDP 2018 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. The transport interventions are:

- \* Improvements to Old Craighall junction (PROP T15):
- \* Improvements to Salters Road Interchange (PROP T17):
- \* Improvements to Bankton Interchange (PROP 17):
- \* Musselburgh Town Centre improvements (PROP T21):
- \* Tranent Town Centre Improvements (PROP T27 and T28):
- \* Rail Network Improvements (PROP T9 and T10):
- \* Segregated Active Travel Corridor (PROP T3):

The Council's Planning Obligations Officer advises that as the development is for more than 4 dwellings, then it may be required to make contributions towards the ELDP 2018 Transport Proposals as set out in the Developer Contributions Framework Supplementary Guidance and Adopted ELDP 2018 Policies DEL1 and T32. As this proposal for 26 homes is a windfall proposal, its impacts and contributions have not been identified through the ELDP 2018 and Developer Contributions Framework Supplementary Guidance transport appraisal process. Under these circumstances the Council's Planning Obligations Officer advises that we would use the nearest ELDP 2018 site as a proxy to determine a per unit contribution rate for transport interventions, except for those towards the Segregated Active Travel Corridor. However, given the small scale of development he further advises that it would not be reasonable to ask the applicant to undertake a cumulative impact assessment to identify contribution levels for 6 of the transport interventions as the cost of this may exceed the value of the contributions.

Therefore, in this specific instance, the Planning Obligations Officer advises that it would not be reasonable to seek contributions towards 6 of the 7 transport interventions. However, the site does lie within the 1.2km buffer of the Strategic Active Travel Corridor (ELDP 2018 Proposal T3) within which the Council has evidenced a requirement for developer contributions. Contributions are set at £492 per dwelling in the and therefore a contribution of £12,792 should be sought towards the Strategic Active Travel Corridor. Subject to the payment of the required contribution towards the Strategic Active Travel



Corridor the proposal does not conflict with Proposal T3 or with Policies T32 and DEL1 of the adopted East Lothian Local Development Plan 2018.

The required payment of a financial contribution of a total of £103454 towards the provision of additional accommodation at Prestonpans High School and £12792 towards the Segregated Active Travel Corridor could be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contributions the proposal is consistent with Policy ED2 of the adopted East Lothian Local Development Plan 2018, which stipulates that developer contributions will be sought from developers of housing land to fund the costs of a phased extension to Preston Lodge High School to meet the need arising from new housing development within the cluster.

The Council's Environmental Protection Manager advises that there is contamination of the soils on the site. Consequently he recommends that a comprehensive contaminated land investigation shall be carried out prior to the commencement of development. This can be secured by a conditional grant of planning permission for the proposed development.

The Council's Road Services raise no objection advising that the junction from Johnnie Copes Road into the site has capacity to cope with the additional traffic generated by the development. Therefore subject to the submission of a Construction Method Statement being secured as a condition of a grant of planning permission the proposed arrangements for vehicular and pedestrian access, parking and turning are all of an acceptable standard and are therefore consistent with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

Given the sites proximity to East Coast Main Line railway Network Rail have been consulted on the application. Network Rail advise that they raise no objection to the application provided that prior to the commencement of development (i) details of surface and foul drainage scheme be submitted to and approved by the Planning Authority which should not be within 10m of the railway boundary and (ii) a scheme of landscaping be submitted and approved by the Planning Authority, which should include hard and soft landscaping works and boundary treatment(s), details of trees and other features that are to be retained and a programme for the implementation of the landscaping in relation to the construction of the development.

Network Rail also advise that details of all changes in ground levels, laying of foundations and operation of mechanical plan in proximity to the rail line must be submitted to Network Rail by the applicant to ensure such works do not disturb the operation of the railway line. The applicant's agent has been advised of this.

The site is within a Coal Mining Development Referral Area and the Coal Authority have been consulted on the application. The Coal Authority advise that having reviewed the submitted coal mining and geological information they confirm the site is not underlain by past shallow coal mine workings and that there is no risk to surface stability. On this basis The Coal Authority raise no objection to the application.

Notwithstanding these technical considerations, an important material consideration in the determination of this application is whether or not the principle of the proposed residential development accords with development plan policy and other supplementary planning guidance, and if not, whether there are material considerations that outweigh any conflict with the development plan and other supplementary planning guidance

Policy 2: Supply and Location of Employment Land of the approved South East Scotland Strategic Development Plan (SESplan) supports a range of marketable employment sites of the size and quantity to meet the requirements of business and industry within the SESplan area. It states that the ELLDP is to support the delivery of 76ha of established strategic employment land supply within East Lothian and maintain a supply of employment land allocations to meet changing demand and should respond to the diverse needs and locational requirements of different sectors by ensuring that there is a generous range and choice of employment sites which are highly accessible to communities across the SESplan area.

In accordance with the SDP, the spatial strategy of the ELLDP prioritised the East Lothian Strategic Development Area / East Lothian Economic Cluster/Corridor as the location within which the majority of employment land allocations are directed (SDP Figure 1, 4 and 8). Overall, the ELLDP makes provision for a total of 231 ha of land for employment. Of this 89.8 ha is already operational employment land with 77.3 ha within the established land supply, including this site the subject of this application, and a further 63.9 ha of new employment land was allocated. In line with the spatial strategy of the ELLDP, the distribution of the new and established but undeveloped employment land allocations prioritised the west of the East Lothian Strategic Development Area/East Lothian Economic Cluster/Corridor, including the Prestonpans cluster.

Para 2.3 of the ELLDP notes that the best opportunities to locate new housing and economic development are in the west of East Lothian. Para 2.47 outlines how the Prestonpans community will grow with both employment and housing opportunities. Taken together these will allow future growth to be sustainable.

At the Examination into the ELLDP the Reporter agreed that the overall pattern of provision of employment locations around East Lothian is guided by policies of the Strategic Development Plan (SESplan) and that within East Lothian, SESplan identified a Strategic Development Area and an Economic Corridor, both of which focus on the key transport routes of the A1 road and the East Coast Main Line. The local development plan follows this pattern by directing most of the employment land allocations to locations within those areas, which include Prestonpans.

Paragraph 3.21 of the ELLDP acknowledges that not all allocated land for employment is in the control of parties seeking to develop the land for employment and that in recognition that the scale of demand for class 4, 5 and 6 uses may not be sufficient to deliver the investment needed to achieve the servicing and delivery of many employment sites. Accordingly the policy that applies to employment sites, Policy EMP1 was made more flexible to encourage other employment uses.

The ELLDP applies a new policy, Policy EMP1 to its employment sites. This policy was made considerably more flexible than its predecessor policy in terms of the types of employment development that might be acceptable on its employment sites. In addition to Classes 4, 5 and 6 of the Town and Country Planning Use Classes (Scotland) Order 1997, Policy EMP1 also supports other employment generating uses subject to the town centre first principle and provided there would be no amenity conflicts or other unacceptable impacts and where the uses proposed do not prejudice or inhibit the activities of nearby employment use.

The application site is within Prestonpans. It is covered by Policy EMP1 and thus is allocated for employment generating use. Policy EMP1 of the adopted East Lothian Local Development Plan 2018 supports in principle uses within Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Other employment

generating uses may also be supported in these locations subject to the town centre first principle (policy TC1) and provided there would be no amenity conflicts or other unacceptable impacts. Proposals to redevelop employment sites or premises for other employment generating uses will only be supported where the uses proposed do not prejudice or inhibit the activities of a nearby employment use. Proposals must not adversely affect amenity and must be able to co-exist satisfactorily with existing or proposed uses on the site and in the surrounding area.

Residential use falls within Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Policy EMP1 of the adopted East Lothian Local Development Plan 2018 of the adopted East Lothian Local Development 2018 does not give any support to residential uses on any part of the application site. The proposed residential development would be sited on and thus would result in the loss of land that is designated by the Planning Authority for employment generating uses as part of a larger area of land to meet part of an identified need for business land in East Lothian. Such business land is required to enable and sustain the economy of East Lothian and of the Lothians.

The proposed residential development is therefore contrary to Policy EMP1 of the adopted East Lothian Local Development Plan 2018.

The Council's Economic Development and Strategic Investments Service have been consulted on the planning application. They advise that their remit is the delivery of the East Lothian Economic Development Strategy 2012 - 2022 and the 2 strategic goals of:-

- 1) Increasing the number of businesses in East Lothian with growth potential; and
- 2) Increasing the proportion of East Lothian residents working in and contributing to East Lothian's economy.

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

It sets out clear strategic direction and is the foundation of the vision set out in the Council Plan of increasing the number of businesses in East Lothian with growth potential and to increase the proportion of East Lothian residents working in and contributing to East Lothian's economy by an increase in East Lothian's jobs by an additional 7,500. Over the 10 year period of the East Lothian Economic Development Strategy 2012 to 2022 the average number of new jobs which need to be created in the Prestonpans area as part of achieving the creation of 7,500 new jobs across East Lothian is 138 new jobs annually.

EDSI note that in order to meet the continued need for business and industrial land and premises in East Lothian the East Lothian Local Development Plan continues to designate the application site in its entirety for employment use by Policy EMP1, which supports uses within Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and for wider employment generating uses. The Reporters in their Examination Report endorsed this designation.

EDSI views the development proposed in this application as having a clear negative impact in terms of delivery of the East Lothian Economic Development Strategy 2012-22 and the 2 strategic goals of increasing the number of businesses in East Lothian with growth potential and increasing the proportion of East Lothian residents working in and contributing to East Lothian's economy. They advise that a clear demand exists for employment land/commercial units in East Lothian, including in Prestonpans, as

identified in the Business Base survey 2017 and based on the 2 strategic goals in the aforementioned Economic Development Strategy 2012-22. The recent submission of a planning application 18/01404/P for a proposal to build 10 commercial units on the last remaining vacant plot of land on the Mid Road Industrial Estate supports this position and is a clear indicator of demand. Moreover, if planning application 18/01404/P is granted and the 10 commercial units are built then there would be no other land designated for employment uses in Prestonpans.

Therefore, the proposed development of the application site for a residential use would lead to a further reduction in available employment land in Prestonpans, contrary to the Development Strategy 2012-22.

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

EDSI point out that whilst the Planning Statement asserts that the site has been actively marketed there is no indication on the price that the site has been marketed at.

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

In granting planning permission in principle 11/00851/PP for the development of all of the application site and adjacent land of a Class 1 retail store with car parking, servicing, landscaping and other associated works it was accepted by the Council, as Planning Authority, that none of the land of the application site was required to be retained for business and industrial use for the reason that the redevelopment of the site for a business or industrial use was not financially viable. This material consideration outweighed the departure from Policy BUS1 of the adopted East Lothian Local Plan 2008.

Given this there can be no objection to the loss of the business and industrial use – those within Classes 4 (Business), 5 (General Industrial) and 6 (Storage and Distribution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

The advice from the Policy & Strategy (Planning) manager is that since the decisions on planning applications 11/00851/PP and 15/00138/P were taken the East Lothian Local Development Plan 2018 has been adopted and Policy BUS1 has been replaced with Policy EMP1. Policy EMP1 allows for a more flexible policy approach than Policy BUS1 whereby other employment generating other than Classes 4, 5 and 6 uses may also be supported on these sites. This is in recognition that the scale of demand and potential users associated with traditional Class 4, 5 and 6 uses may not be sufficient to deliver the investment needed to achieve the servicing and delivery of many employment sites. The decision taken by Council on planning permission 11/00851/PP did not consider whether or not the site was viable for employment generating uses beyond Classes 4,5 & 6.

Therefore, the advice from the Policy & Strategy (Planning) Manager is that it is necessary to consider whether there are any material planning considerations that would justify departure from the development plan with regard to those wider employment generating uses.

The Planning Statement raises the following as material considerations in support of the application: (i) pre application advice given in 2016 that affordable housing would be acceptable on the site, (ii) the site not being viable for employment generating uses, (iii)

the provision of affordable housing and SESplan2 requiring East Lothian Council to provide more affordable housing than is provided for within the ELDP 2018.

On the matter of the pre application advice given to the applicant the Planning Statement advises that the applicant sought pre application advice from the East Lothian Council's Planning Service in 2016 regarding the likelihood of getting planning permission for development of the site for affordable housing. The pre application advice given was that; (i) whilst the land was designated for Class 4,5 and 6 uses it had been accepted through the grant of planning permission 11/00851/P and 15/00138/P that the development of the site for those uses was not viable, and (ii) given there was a shortfall in the 5 year effective housing land supply that these matters could be used as material planning considerations in the determination of any planning application submitted for housing on that land. Therefore, those material planning considerations may at that time have justified a departure from the development plan.

It is the case that the Planning Service gave written pre application advice back in June 2016 advising that whilst the land was designated by Policy BUS1 of the adopted East Lothian Local Plan 2008 for Class 4, 4 and 6 uses that (i) it had been accepted that through the grant of planning permission 11/00851/PP and 15/00138/P that the development of the site for those uses was not viable, and (ii) given that there was a shortfall in the 5 year effective housing land supply that these matters were material planning considerations that may justify a departure from the provisions of the development plan. However the pre application advice email made it clear that the advice given represented the opinion of an officer of the Council and did not prejudice any decision the Council may make on any forthcoming applications. The advice was based on the development plan at that time which was the adopted East Lothian Local Plan 2008. This has since been superceded by the adopted East Lothian Local Development Plan 2018, which has broadened the acceptable uses on an employment site beyond those in Classes 4, 5 and 6. Also there is no longer a shortfall in the 5 year effective housing land supply. The most recent Housing Land Audit demonstrates that there is more than an adequate 5 year effective land supply. This pre-application advice therefore no longer applies, as the circumstances are materially different.

With regard the matter of viability the Planning Statement submitted with the application informs that the site has been vacant since 2011 despite numerous attempts to market it for employment use. The applicant's agent has also stated in an email that the site was marketed as "open to offers" with no guide price attached to it. It also informs that following enquiries were received in respect of the site:

- Balmoral Estates - development of the site for a care home but which concluded that the site was not big enough for this use;
- Marston's/ Green King - Development of a pub/restaurant on the site. However the Planning Statement informs that Green King which also concluded that the site was not prominent enough for this use;
- workshop units but was concluded that this use was not viable;
- Other housing developers (Crudens, AS Homes and 3 others) made enquiries about the site but it was concluded by them that it was not big enough for those potential developers;
- Coal yard and log store but enquirer did not pursue this, no reason given.

In a further submission, the agent for the applicant states that, as well as the above marketing history, SLD were appointed to market Lot 2 (the subject site) in July 2018. The site has been widely advertised (for all uses) through prominent on site signage, the SLD website and by sending the site to our extensive data base via email. The lack of

interest despite such broad marketing reflects the reality that the location is not considered viable for employment uses; this may be due to the fact that the site is located in what is considered a tertiary location with low passing trade and lack of roadside visibility compared to comparable sites. "If the site was suitable for a care home or waste facility use, then we would have no doubt received some interest, but there was none. Both such operators are active in the market if the right site comes along. From our experience we cannot think of other employment generating uses for which this site is likely to be in demand, and the marketing exercise, in our view, would have generated such interest if it was there." The applicant maintain their position that the marketing history demonstrates that there is no such interest and no offers for an employment use.

Notwithstanding what is stated by the applicant, an offer was made to purchase the site in June 2017. This was from the Estate's division of East Lothian Council, who were seeking to purchase it for the development of affordable housing. This offer was made as they were aware of the positive pre-application advice given at that time. On that basis the District Valuer was asked to value the site for residential use, and they advised that a reasonable value for a 20 unit affordable housing development of the site would be £200000. A bid of £200000 was made by the Council to the land agent on behalf of the land owner, Rettie's, in June 2017 for the site but this bid was rejected. In the refusal email from Rettie's it is stated that their client would sell the site for £400000 on the basis of a subject to getting planning permission for 40 residential units on it.

It is unclear whether the land owner would now be willing to sell the site for less than £400,000. As the applicant says, the marketing information set out above does not have a guide price for the site. If the land owner were to maintain that selling price then EDSI advise that this may preclude some employment uses from being able to be developed on the site. It would be premature at this time to approve the site for residential use, particularly given that the Local Plan has only been adopted since September 2018. Furthermore, it should be noted that the site is currently being advertised on the SLD website as a "Residential Development Site" with potential for 40 residential units, care home or retail/ leisure uses.

On the matter of affordable housing the ELLDP 2018 SPG on Affordable Housing states that the Scottish Government's Strategy and action plan for housing for the period 2011-20 identifies a need to build new high quality affordable homes (including social housing) to meet need and demand from a growing and ageing population, including households on lower incomes. The SPG also states that SPP suggests the quota of affordable homes that can be expected from a market housing site should normally be no more than 25% of units. The ELLDP requires sufficient land is available to deliver 10150 homes in the period 2009-24. Housing development in East Lothian is therefore likely to continue to grow at a fast pace, aiming to make an appropriate contribution to the Scottish Government target of 50000 new affordable homes by the end of this parliament. It is therefore critical that East Lothian Council maximises its opportunities to increase the supply of affordable housing through the ELLDP 2018.

The applicant's Planning Statement informs that the need for affordable housing in East Lothian has increased since the adoption of the ELLDP 2018 because the ELLDP 2018 is based on SESplan 1 rather than the Housing Need and Demand Assessment (HNDA) that underpinned SESplan 2. The applicant states that this is acknowledged in the Council's Local Housing Strategy (LHS) which explains that the ELLDP, LHS and HNDA cycles are not currently aligned with the ELLDP being informed by SESplan HNDA 1 Housing Supply Targets. The applicant goes further to contend that given the ELLDP was based on the older, lower affordable housing figure, this means that there is not enough housing land identified in the adopted plan to meet the affordable housing need identified in the LHS.

The advice of the Policy & Strategy (Planning) manager is that Policy HOU2 (Maintaining and Adequate 5 year effective housing land supply) of ELDP 2018 has used the same Housing Land Requirements as those set by SDP1 and its associated Supplementary Guidance on Housing Land. The approved ELLDP makes available an appropriate and sufficient amount of housing land, which in overall quantitative terms meets and exceeds the SDPs Housing Land Requirement. The ELLDP also provides an appropriate and sufficient range and choice of site types and sizes in marketable locations that are effective or able to be made effective during the plan period. Therefore, release of any further housing land over and above that set out within the LDP cannot be reasonably justified and would be unnecessary and inappropriate.

The Policy & Strategy (Planning) manager also advises that it should be noted that the ELDP 2018, as required by legislation, is informed by SESplan HNDA1 and corresponding HSTs as opposed to HNDA2. It is also noted that the LHS sets out SESplan HNDA1 figures in comparison with SESplan HNDA2 figures for transparency, although it aims to meet HSTs as per SESplan HNDA2. This reflects the timing of the separate documents and it is anticipated that during the lifetime of this LHS, these key documents will become aligned. The statutory position in respect of housing land is provided by the ELDP 2018 at this time. SESplan 2 is not yet approved by Scottish Ministers therefore it would be premature to rely on the affordable housing figures being proposed.

The Policy and Strategy (Planning) manager therefore concludes that the residential development proposed in this application is contrary to the development plan, specifically Policy 2 of the approved South East Scotland Strategic Development Plan (SESplan), Policy EMP1 of the adopted East Lothian Local Development Plan 2018 and there are no material planning considerations that would justify a departure from the development plan.

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

In conclusion, the proposed housing development is a significant departure from the development plan, and there are no material considerations, including the provision of affordable housing, that would outweigh this planning conflict and would justify a grant of planning permission for the proposed development.

#### REASONS FOR REFUSAL:

- 1 The proposed housing development would result in the loss of allocated employment land that is part of the established employment land supply of Prestonpans, to the detriment of East Lothian's economy, contrary to Policy 2 of the approved South East Scotland Strategic Development Plan (SESplan), Policy EMP1 of the proposed East Lothian Local Development Plan and contrary to the Council's East Lothian Economic Development Strategy 2012 to 2022.
- 2 If approved the proposed housing development would set an undesirable precedent for the development of new housing on land elsewhere in East Lothian that is allocated for employment use, the cumulative effect of which would be the depletion of Council's supply of established land for employment use to the detriment of the economy of East Lothian.

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