

PLANNING COMMITTEE

7 MAY 2019

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

**TUESDAY 26 MARCH 2019
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Bruce
Councillor J Findlay
Councillor N Gilbert
Councillor S Kempson
Councillor C McGinn
Councillor K McLeod
Councillor J McMillan
Councillor J Williamson

Other Councillors Present:

Councillor A Forrest
Councillor K Mackie

Council Officials Present:

Mr D Proudfoot, Head of Development
Mr J Lamond, Head of Council Resources
Mr I McFarlane, Service Manager – Planning
Ms S Smith, Acting Service Manager – Economic Development
Mr K Dingwall, Team Manager – Planning Delivery
Ms C Molloy, Project Manager
Mr A Stewart, Project Manager
Mr P Forsyth, Team Manager – Assets and Regulatory
Mr K Graham, Solicitor
Ms S McQueen, Planner
Ms E Taylor, Planner
Ms E Clelland, Planner
Ms M Haddow, Transportation Planning Officer
Ms P Bristow, Communications Adviser

Clerk:

Ms A Smith

Visitors Present/Addressing the Committee:

Items 3/4 – Mr R Holder, Ms S Laidlaw, Mr N Davidson
Item 5 – Mr J MacCallum, Ms S Thomas
Item 6 – Mr R Holder, Ms A Leslie

Apologies:

Councillor W Innes
Councillor F O'Donnell

Declarations of Interest:

Councillor McMillan declared an interest in application nos. 18/00485/PPM and 15/00337/PM in relation to his role as the Council's spokesperson on the Innovation Park Steering Committee. He would leave the Chamber for these items.

Change of Order of Business

Iain McFarlane, Service Manager – Planning, asked if application no. 18/00764/PM, 7 Tantallon Road, North Berwick could be taken first as Keith Dingwall, Team Manager – Planning Delivery, had a statement for the Committee's attention. This was agreed.

1. PLANNING APPLICATION NO. 18/00764/PM: ERECTION OF CARE HOME BUILDING (CLASS 8), HOTEL BUILDING (CLASS 7), AND ASSOCIATED WORKS AT 7 TANTALLON ROAD, NORTH BERWICK

Mr Dingwall informed Members that the planning application submitted by the applicant, Frontier Estates (Berwick) Limited certified that they, together with East Lothian Council, owned all of the land to which the application related. However, from the Committee site visit, it had become evident that this was not the case. The agent for the applicant had since confirmed that they did not yet own any of the land to which this application related. Rather they had an option to purchase the site. Thus, the land ownership certificate that accompanied the application was incorrect, and consequently the current owner of the application site had not been formally notified of this planning application. Section 35 of the Town and Country Planning (Scotland) Act 1997 stated that a planning authority should not entertain any application for planning permission unless any person, who at the beginning of the period of 21 days ending with the date of the application, was the owner of any of the land to which the application related had been notified of the application. Consequently, the Planning Committee at this time could not take a decision on this planning application. The applicant had acknowledged their mistake and would now ensure that all land owners were formally notified of this planning application. They would also submit a revised land ownership certificate confirming this. Once this had happened, the application would be re-registered. A report on this proposal would then be brought before the next available Planning Committee.

Decision

The Committee agreed to continue this application.

2. MINUTES FOR APPROVAL – PLANNING COMMITTEE 5 FEBRUARY 2019

The minutes of the meeting of the Planning Committee of 5 February 2019 were approved.

Sederunt: Councillor McMillan left the Chamber.

3. PLANNING APPLICATION NO. 18/00485/PPM: 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 AT LAND AT OLD CRAIGHALL VILLAGE, MUSSELBURGH

A report was submitted in relation to Planning Application No. 18/00485/PPM. Mr McFarlane presented the report, summarising the key points. The report recommendation was to grant consent. He informed Members of a couple of amendments to the report conditions. Condition 1(s) (page 34) the words *at least* should be replaced with *around*. At the request of Road Services and Education Services Condition 3 (page 35) should now read (from *The details to be submitted sentence...*)

The details to be submitted shall also include construction phasing plans which set out details of:

- i) the phasing of completion, prior to the opening of the new primary school, to adoptable standard including final surfacing and operational street lighting, of all access roads, footpaths and cycleways that connect each development phase to the new primary school;
- ii) the phasing of completion and submission for Council adoption, prior to the opening of the new primary school, of pedestrian/cycle and vehicle accesses and access roads directly to and for that school.

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

Mr McFarlane responded to questions. Regarding access during the construction phase, particularly whether such traffic would avoid Old Craighall Village, he outlined the details of the first phase, advising there would be two road access points from Monktonhall Road and a Segregated Active Travel Corridor. There would also be an amended junction at QMU. Peter Forsyth, Team Manager – Assets and Regulatory, Road Services, clarified issues then raised regarding this exit slipway/junction. In relation to town centre improvements in Tranent, Mr McFarlane explained this came from translating the Developer Contributions Framework into specific purposes. He responded to questions about Musselburgh station and Network Rail's intentions. Regarding increasing parking capacity at this station Mr Forsyth said that at this stage there was no specific timeline, ongoing work as regards progress of development would be the determining factor. In relation to noise mitigation measures as regards the A1 Mr McFarlane said that the noise assessment submitted by the applicant had been considered by Environmental Protection and they were content with the assessment subject to mitigation measures as set out in the recommended conditions. The measures recommended were satisfactory and met World Health Organisation standards.

Robin Holder of Holder Planning, agent for the applicant, informed Members that this application site had been allocated by Proposal MH1 of the adopted East Lothian Local Development Plan 2018 (ELLDP). He outlined the principal points of the proposal, highlighting the different elements of this mixed use development and the range of opportunities that would be provided. He advised that land had been safeguarded as part of this proposal for future improvements to Musselburgh station. This major development would be very positive for Musselburgh and East Lothian. He informed the Committee that work would commence before the end of 2019 and it would be a 15-year build programme.

Mr Holder, along with Susan Laidlaw of Persimmon Homes Ltd., and Neil Davidson, Project Manager, answered questions from Members. In relation to whether there would be information events for the local community as the project progressed Ms Laidlaw said there were no such proposals at present but this would be considered. Mr Davidson responded to queries about factoring arrangements, advising that a tender was carried out for every project. He gave further details about the factoring process and clarified that the first phase would probably have a single factor. In relation to questions about lighting, specifically reducing the amount of darker areas in the estate, he stated that street lighting provided throughout the development would be pre-set to the Council's requirements. Safe routes to school and adopted footpaths would be well lit; there would be a lot of lighting throughout the development. The darker areas would mainly be the parking courts, which, if not adopted, would be lit with bollards. Regarding whether other house builders would be involved, Ms Laidlaw said that at present there was no clear intention to bring anyone else on to this site.

Local Member Councillor Williamson referred to the immense change to this area in particular for residents of Old Craighall, who would be the most affected. He hoped that

those residents would see some benefits from the re-routing of the B6415, improvements to bus services and upgrading of footpaths. He had concerns about how this major site would relate to the rest of Musselburgh. There were issues with opening up access to Whitehill Farm Road, which had a narrow bridge and restricted traffic movement.

Local Member Councillor Mackie, not a member of the Planning Committee, agreed with comments expressed by her ward colleague. She also had concerns about the new development joining up to Musselburgh and not being an isolated community. She welcomed the creation of the Innovation Hub. She also welcomed the new exit to the A1.

Local Member Councillor Forrest, also not a member of the Planning Committee, welcomed this application. The large employment land area was very welcome; the location, close to the A1 and to rail links, should provide excellent employment opportunities. He hoped that Persimmon Homes would work with the local community to ensure a good relationship between the new development and the existing Musselburgh community.

The Convener also welcomed this development coming forward to Committee. He referred to the long ELLDP process and the huge amount of work carried out by a small team of professional officers. This application would provide significant numbers of houses and significant employment opportunities. There would be huge community benefits. The planned road network along with pedestrian and cycle paths would all help bring the existing and new areas together. He supported the recommendation to grant planning permission.

The Convener 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 in principle 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 around 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 establish 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 which set out details of:
- i) the phasing of completion, prior to the opening of the new primary school, to adoptable standard including final surfacing and operational street lighting, of all access roads, footpaths and cycleways that connect each development phase to the new primary school;
 - ii) the phasing of completion and submission for Council adoption, prior to the opening of the new primary school, of pedestrian/cycle and vehicle accesses and access roads directly to and for that school.

The development of the site shall thereafter 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, LA_{rTr}, 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, LA_{90T}. 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.

4. PLANNING APPLICATION NO. 15/00337/PM: ERECTION OF 370 HOUSES, 103 FLATS AND ASSOCIATED WORKS AT LAND AT CRAIGHALL, MUSSELBURGH

A report was submitted in relation to Planning Application No. 15/00337/PM. Mr McFarlane presented the report, summarising the key points. The report recommendation was to grant consent.

Mr McFarlane responded to questions. Regarding the new Craighall Primary School he advised that work was ongoing in respect of the Section 75 Agreement for the transfer of land to allow for that site; work should commence in 2021, with completion in 2023 at the latest. In relation to queries about catchment anomalies, he advised that the Education Service had reviewed catchment areas. He clarified that pupils who wished to remain at their existing schools could do so but all new pupils from the new houses would go to the new primary school. There would be a temporary 'hosting' arrangement at Stoneyhill Primary School in respect of phasing of housing completions.

Mr Holder, agent for the applicant, indicated that he did not intend to make a presentation but he, along with his colleagues, would be happy to answer any questions. In response to whether 12 one bedroom flats were an adequate number Ms Laidlaw referred to market research carried out, advising that there would be a range of units within the wider site, including two bedroom flats and two bedroom terrace houses, all aimed at first time buyers. Mr Davidson clarified, in relation to any finds from the Battle of Pinkie site that a data structure report would be provided to the Council's Archaeologist. Regarding factoring arrangements, he confirmed that one factor would take over the site in phases as completion occurred. In response to a query about boundary treatments to address the significant noise from the A1, Mr Davidson stated that the buildings would have good acoustic design; there would be a variety of solutions to address this matter, which would be submitted to the Council. He clarified that nothing was proposed on the A1.

Mr McFarlane responded to further questions. Regarding green spaces/recreational areas, he said that the design and layout proposals submitted by the applicant met the requirement for open spaces within the ELLDP and met the standards in the Council's Open Space Strategy. Responding to more queries, he reiterated that the Section 75 Agreement, which covered both applications was currently being finalised. Work was ongoing regarding timings of developer contributions to ensure delivery of the new primary school when required. He clarified that any Section 75 Agreement would apply to any subsequent purchaser.

Local Member Councillor Williamson stated this was another major development for Musselburgh. There would be traffic issues for the town. He hoped that something would be done in relation to Monktonhall Terrace, the traffic situation was very difficult now and concerns had been expressed about the impact of the new developments. The new traffic lights at the Old Craighall roundabout should help. Bus services also needed looked at; hopefully this new development would encourage an increase in bus routes/services.

Councillor Findlay, referring to the noise issue, noted that the houses next to the A1 were primarily affordable housing. He asked that the Planning Service keep a careful watch on the noise issue. Responding, Mr McFarlane referred to discussions at the site visit. There were two areas of affordable housing, one close to the embankment alongside market housing and one further away alongside other market housing and that, where required, acoustic measures as outlined in the report would be followed through.

Councillor McGinn referred to his earlier comments about factoring arrangements. The Council had to ensure that developers put in place good factoring arrangements; he referred to issues with factors in other developments. He appreciated, in terms of planning considerations that this was not an issue but it was something he wished to highlight.

The Convener welcomed this application. The proposed layout was good but he did have some concerns about noise as mentioned earlier. He appreciated that Environmental Health said that appropriate measures were in place but he still had concerns. Physical barriers had been erected in some other areas in Scotland and this may need looked at. He would be supporting the recommendation to grant planning permission.

The Convener 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:

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⁻², 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.

Sederunt: Councillor Mackie left the Chamber; Councillor McMillan returned.

5. PLANNING APPLICATION NO. 18/01319/P: ERECTION OF 1 HOUSE AND ASSOCIATED WORKS AT ASHFIELD HOUSE, DUNBAR

A report was submitted in relation to Planning Application No. 18/01319/P. Esme Clelland, Planner, presented the report, informing Members that the applicant now proposed additional hedging and planting; Road Services and the Landscape Officer were happy with the revision. An additional condition (*condition 11*) was therefore required, which she outlined:

All planting, seeding or turfing detailed in the approved 'Proposed Site/Landscaping Plan 05 Rev F' docketed to this permission shall be carried out in the first planting and seeding season following the occupation of the house hereby 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 the character of the Dunbar Conservation Area.

Ms Clelland then summarised the key points of the application. The proposed decision set out in the report was to grant consent.

In response to the Convener's query Ms Clelland clarified that some shrubs would still have to be removed but there would be additional planting.

John MacCallum, of JM Planning Services, agent for the applicant, informed the Committee that the principle of development on site was supported by all the relevant planning policies. He referred to the previous, unsuccessful, application; he outlined the details of this new proposal, highlighting the differences. This new design was more suited to the landscape. There were no adverse residential amenity issues. All the design proposals were acceptable. He gave details of the tree survey results. He asked Members to support this application.

Siobhan Thomas, immediate neighbour, spoke against the application. She informed Members that the plot proposal enveloped all around her property. She stressed the significant height difference between the proposed house and her home, explaining how this affected her family's amenity. She outlined overlooking and privacy concerns; her family's amenity was not being protected. She suggested that this could be resolved by careful planting or careful use of trellis, which would help negate the height difference of the gardens. She urged the Committee to give consideration of privacy issues.

The Convener, a Local Member, noted from the site visit the close proximity of the Kings Court development and the difference in elevation levels. He referred to the previous unsuitable application. He indicated however that this proposal, with the amount of screening proposed, was acceptable to Planning Officers. He would be supporting the report recommendation with the addition of the new condition as set out by Ms Clelland.

Local Member Councillor Kempson remarked that she was not generally in favour of building in garden ground but in this case, following the site visit, she did not feel that the proposal would have an adverse effect on the original house. She welcomed the applicant's efforts to mitigate their neighbour's privacy concerns. She would be supporting the application.

Councillor McMillan, referring to remarks from Ms Thomas about screening/overlooking, asked if the erection of some trellis would meet her requirements. Following discussion and in response to the Convener's question, the applicant confirmed they would be willing to erect trellis. Ms Clelland stated that an extra condition (*condition 12*) would therefore be required to deal with this.

The Convener moved to the vote on the report recommendation (to grant consent) subject to the additional condition regarding landscaping (*condition 11*) as outlined by Ms Clelland and an extra condition (*condition 12*) as regards the erection of trellis.

For: 9
Against: 0
Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to the following 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.

- 11 All planting, seeding or turfing detailed in the approved 'Proposed Site/Landscaping Plan 05 Rev F' docketed to this permission shall be carried out in the first planting and seeding season following the occupation of the house hereby 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 the character of the Dunbar Conservation Area.

- 12 Prior to the commencement of development on site, full details of a trellis to be attached to the eastern boundary fence of the site where it adjoins the garden ground of 14 Kings Court, and suitable planting for the trellis, shall be submitted to and approved in writing by the Planning Authority. The trellis and planting shall be designed with the provision of additional visual screening between the application site and adjoining garden in mind. The trellis and planting shall be provided in accordance with the detail so approved prior to any occupation of the new house. The approved trellis and planting shall thereafter be retained unless otherwise agreed in writing with the Planning Authority.

Reason:

To provide additional visual screening between the site and adjoining land in the interest of residential amenity.

6. PLANNING APPLICATION NO. 18/01344/P: ERECTION OF 4 HOUSES, 22 FLATS AND ASSOCIATED WORKS AT LAND WEST OF JOHNNIE COPE'S ROAD, MID ROAD, PRESTONPANS

A report was submitted in relation to Planning Application No. 18/01344/P. Emma Taylor, Planner, presented the report. She informed Members, for clarification that in relation to employment land the Reporters had not endorsed this specific designation (*page 121*). She also advised, in respect of representations, that ten were supportive not eleven as stated, as one of the individuals indicated they had not submitted a representation. She summarised the key points within the report. The proposed decision was for refusal of the application.

Ms Taylor and Mr McFarlane responded to questions. Ms Taylor explained why approving a housing development of land allocated for employment use, against the ELLDP, would set an undesirable precedent. Mr McFarlane stressed the importance of the recently adopted ELLDP, this had been a significant piece of work, widely consulted on with local communities, and that its land supply and allocations had been considered very carefully. The Reporters had looked at employment land supply in great depth. To question allocated uses, after adoption of the ELLDP by Scottish Ministers would be undermining the ELLDP. Regarding the Council's attempt in June 2017 to purchase the site for affordable housing Ms Taylor stated that at that point there had been two key differences. Firstly, the new ELLDP, which broadened employment land use, had not been adopted and secondly there had been a shortfall in housing land supply then. Responding to further queries, she clarified that if the land had not been set for employment use, that the Planning Service had no objection to the design of the houses. In relation to more questions about employment land, Mr McFarlane

reiterated that the employment land supply had been approved by Scottish Ministers and the Council would be making every effort to ensure these sites were delivered. He stressed again that going against the recommendation would undermine the ELLDP. He added that there would be the opportunity in the future for review in the context of the new Strategic Development Plan.

Mr Holder, agent for the applicant, clarified that marketing had been done due to advice from the Council that a housing development of the site was acceptable. Anne Leslie, representing the Local Affordable Rent Housing Trust (LAR), said that LAR had a very good relationship with the Council and had successfully delivered housing elsewhere in East Lothian. LAR specialised in developing local communities; she referred to their Cockenzie development. All rents would be set at mid-market rent levels. The waiting list for housing in East Lothian had around 80 people; there had been great interest in these homes. Mr Holder referred to the refusal reasons. As regards loss of business use land, he said the experts' view was of no prospect of developing the site for employment use; it had been vacant for many years despite marketing attempts. In respect of precedent he said every planning application had to be considered on its merits, he disagreed with Mr McFarlane, it was not a fundamental issue as regards the ELLDP; there were exceptional circumstances here. He reiterated that the Council's pre-application advice was that housing was suitable.

The Convener questioned why LAR had looked at a site not allocated within the ELLDP for housing. Mr Holder referred again to the Council's original advice. He added that LAR had not been made aware that the ELLDP had changed as regards employment land use allocation. Ms Leslie stated that LAR was actively looking at other sites in East Lothian but finding sites at the right price was challenging. Mr McFarlane acknowledged the advice provided previously by the Council but stressed that this had been given in very different circumstances and that different advice had been given to the applicant prior to their application being submitted, in the context of adoption of the ELLDP.

Local Member Councillor Gilbert referred to the successful LAR housing development in Cockenzie. He stressed that all 26 properties at this new development would be for mid-market rent. The Planning Service had no objection to the design of the properties; their objection was solely based on the loss of business use land. The site had been vacant since 2011 and despite considerable marketing had failed to attract interest. LAR had 80 people on their waiting list for an East Lothian property. He would be supporting the application.

Local Member Councillor Bruce said this was a difficult issue. He acknowledged the good work done by LAR. He did have concerns about setting a precedent but also had concerns about the lack of potential employment use for this site.

Councillor McGinn referred to the ELLDP and stressed the need to provide employment opportunities for the people of East Lothian. He felt it would be dangerous to set a precedent. He acknowledged LAR's contribution to local communities but would be supporting the report recommendation.

Councillor McMillan referred to the Economic Development Strategy's aim to support small businesses; a signal had to be sent to potential employers and small businesses that the Council was committed to economic growth. The prime objective had to be provision of economic development land. He would be supporting the recommendation for refusal.

Councillor McLeod referred to earlier points he had made about affordable housing; he would be supporting the application.

Councillor Findlay appreciated the requirement for affordable housing in this area however, the ELLDP was a new plan and it would set an undesirable precedent if this application was approved. He would be supporting the recommendation for refusal.

The Convener remarked that ordinarily he would support an application for affordable housing but in this case, he was unable to do so. This application went against the recently adopted ELLDP; it would send out the wrong signal to developers if the Committee approved this application. There were other more suitable sites for housing and he hoped that LAR would discuss this with the Planning Service. He supported the officer's recommendation.

The Convener moved to the vote on the report recommendation (for refusal):

For: 6
Against: 3
Abstentions: 0

Decision

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

- 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.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee

MEETING DATE: Tuesday 7 May 2019

BY: Depute Chief Executive – Partnerships and
Community Services

SUBJECT: Planning Application 18/00764/PM - Erection of care
home building (Class 8), hotel building (Class 7) and
associated works at 7 Tantallon Road, North Berwick **2**

1 PURPOSE

- 1.1 At the Planning Committee meeting on 26th March 2019, officers advised the Planning Committee that this planning application (Ref: 18/00764/PM) submitted by the applicant, Frontier Estates (Berwick) Limited, certifies that they, together with East Lothian Council, own all of the land to which the application relates. However, from the Committee site visit of Friday 22nd March 2019, it became evident that this is not the case. The agent for the applicant subsequently confirmed that they do not yet own any of the land to which this application relates. Rather they have an option to purchase the site. Thus, at the time of the Planning Committee meeting of 26th March 2019, the land ownership certificate that accompanies the application was incorrect, and consequently the current owner of the application site had not been formally notified of this planning application.
- 1.2 Section 35 of the Town and Country Planning (Scotland) Act 1997 states that a planning authority shall not entertain any application for planning permission unless any person, who at the beginning of the period of 21 days ending with the date of the application was the owner of any of the land to which the application relates, has been notified of the application.
- 1.3 As a result of this, officers advised the Planning Committee at the meeting of 26th March 2019 that they could not take a decision on the application at that time.
- 1.4 Consequently, the Planning Committee agreed to the continuation of the planning application to allow the applicant the opportunity to carry out the notification of the owners of the land and buildings of the site.
- 1.5 The applicant's agent subsequently notified the owners of the land and buildings of the application site and served the requisite ownership notification on them. With effect from 26th March 2019 the application was re-registered.
- 1.6 The application is now again brought before the Planning Committee for a decision on it.

2 RECOMMENDATIONS

- 2.1 That planning permission be granted subject to the conditions set out in the report presented to the Planning Committee meeting of the 26 March 2019, which is attached as an appendix.

3 BACKGROUND

- 3.1 Members will recall that a report submitted by the Depute Chief Executive (Partnership and Services for Communities) on planning application 18/00764/PM was before them on the agenda for their meeting of 26th March 2019. A copy of that report is attached to this report. This application seeks planning permission for the construction of a care home building (Class 8), hotel building (Class 7), and associated works on an area of land, measuring some 0.99 of a hectare, 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.
- 3.2 The report submitted by the Depute Chief Executive (Partnership and Services for Communities) set out why the proposed development was considered acceptable. It recommended that planning permission be granted subject to the imposition of 22 conditions.
- 3.3 At the meeting on the 26th March 2019 the Council agreed to continue planning application 18/00764/PM to allow the applicant, who are not the owners of the land and buildings of the site, to instruct their agent to carry out notification of the planning application to the owners of the site.
- 3.4 As a result of this notification of the owners of the site, which is a statutory requirement of Section 35 of the Town and Country Planning (Scotland) Act 1997, planning application 18/00764/PM was re-registered and given a new target decision date, and it again appeared on the Weekly List of Registered Applications of 4th April 2019.
- 3.5 As a result of appearing on the Weekly List of Registered Applications of 4th April 2019 the application was again open to a further period for public representation. A total of four additional written representations have been received to the application. One of those representations is from a party that had previously only raised a comment that neither supported nor objected to the proposals, and another is from a party, the North Berwick Group Practice, that had previously submitted an out-of-time representation. All four of these representations raise objection to the application and the grounds of objection as summarised are:
 - o The hotel demand assessment should not be a confidential document;
 - o Where will the guests of the hotel come from, as the hotel is miles from the A1 so there would be no significant passing trade;
 - o The applicant refers to a 'larger hotel suitable for group travel' however this is a declining market which could anyway be catered for by

the Marine in North Berwick, and in any case there are no facilities on the site for the loading/unloading/parking of coaches, and thus it must be concluded that there would be abstraction from the current hospitality businesses in the area;

- o The interpretation of Policy EMP1 (i.e. the proposed use would not prejudice or inhibit the activities of a nearby employment use) in the officer's report on the application is very restricted in that this has been interpreted to relate to the nearby cemetery, Council Depot, etc, when clearly there are other hospitality businesses in North Berwick that would be impacted by the proposals and at risk;

- o There is not, as suggested, a severe lack of accommodation in the area due to the substantial and growing number of Air BnB and other letting properties with the result that existing hotels are offering 'groupon' and 'itison' deals to sustain business, and existing hotels (e.g. Blenheim House and County Hotel) are closing due to there not being enough demand and there are now over 180 beds on AirBnB within 5 miles of North Berwick, and existing hotels are being granted planning permission to change in use to housing;

- o Building a hotel of this size would undermine/ruin/jeopardise small local hotel businesses as there is already too much accommodation in North Berwick;

- o There is a lack of commercial businesses requiring accommodation and where commercial and business clients require accommodation they do not use hotels anymore but favour private letting and AirBnB;

- o Insufficient parking is proposed for the hotel as there is no account taken for staff car parking or customers using the restaurant;

- o The projected number of jobs and knock-on jobs is unlikely to be as indicated, as any chain taking this site would be likely to use central purchasing with hardly any benefit to the local businesses during construction or operation;

- o The occupancy figures are questionable when considering the amount of existing accommodation available in the area;

- o There is a bar/restaurant open to the public included in the plans, which does not appear to have been taken into account by the Council when addressing parking and other issues;

- o The existing 2 care homes, 1 nursing home and other supported accommodation in North Berwick require a great amount of input from the North Berwick Group Practice (NBGP) alongside the services required by the over 75s in the town who live independently and without warden support;

- o The proposal to build a care home is not in line with East Lothian Health and Social Care Partnership's vision for residential care over the

next 5 - 10 years, and the town is already well served in terms of beds for elderly patients and there is little requirement for an additional nursing home; and

- o The NBGP is under immense strain in terms of their building and has little capacity to expand and it is very difficult to recruit additional GPs to extend the team, and if the development goes ahead the practice could not cope with these additional patients with complex needs and would not be in a position to accept any new patients residing in the proposed care home onto the practice list.

3.6 The matters raised in representations regarding demand for the hotel, Policy EMP1, job creation and impact on health care provision are set out in the report submitted by the Depute Chief Executive (Partnership and Services for Communities) on the agenda for the planning committee meeting of 26th March 2019 (background paper 1).

3.7 The bar/restaurant of the proposed hotel is shown on the application drawings to only have capacity for some 22 covers. It is therefore reasonable to assume that it would be a small ancillary facility intended to cater primarily for the requirements of the customers of the proposed hotel. Moreover, as a bar/restaurant of a 'branded budget' hotel, even if it were to be open to members of the public (i.e. non-residents of the proposed hotel) as such facilities often are, it is unlikely that the bar/restaurant would be a destination in its own right and thus it is unlikely to result in a demand for car parking spaces over and above that required for the hotel rooms. It would not be unreasonable to assume that most local people using the bar/restaurant facility of the proposed hotel would be likely to walk to the premises or arrive by taxi, rather than arrive in their own vehicle.

3.8 The Council's Road Services have been consulted on the matter raised in one of the representations regarding the provision in the proposed hotel of a bar/restaurant. Road Services advise that in respect of a hotel the Council's parking standards are for 1 space per room plus provision for bars, etc, and that this would suggest that an additional 7 parking spaces may be required for the bar/restaurant, in addition to the 65 parking spaces to be provided for the proposed hotel.

However, Road Services advise that in this case the 65 parking spaces proposed to be provided would be sufficient for the following reasons:

- o The required Travel Plan Framework will include measures which will be taken to minimise the number of vehicles parked on site at any time;

- o Allowing for the location and the nature of the facility, it is not expected that the hotel would cater for functions, which would result in both 100% occupancy of both the rooms and the bar/restaurant area;

- o The bar/restaurant is unlikely to be a destination in its own right, and it is likely that most local people who may use it could reasonably be expected to walk or take a taxi; and
 - o The site is on a regular bus route, with a bus stop some 90 metres away to the east, with regular buses throughout the day until 4am.
- 3.9 Accordingly, Road Services are satisfied that the parking provision for the bar/restaurant of the proposed hotel could be accommodated flexibly within the 65 parking spaces that are to be provided.
- 3.10 Thus, the proposed hotel, including its bar/restaurant, would be provided with an adequate amount of on-site parking and on matters of car parking provision the proposed development does not therefore conflict with Policy T1 of the adopted East Lothian Local Development Plan 2018.
- 3.11 Thus it is recommended that planning permission be granted subject to the conditions that are set out in Appendix 1.

4 POLICY IMPLICATIONS

- 4.1 None.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy

6 RESOURCE IMPLICATIONS

- 6.1 Financial - None.
- 6.2 Personnel - None.
- 6.3 Other - None.

7 BACKGROUND PAPERS

- 7.1 Appendix 1 - Report by the Depute Chief Executive (Partnerships and Community Services) on planning application 18/00764/PM.

AUTHOR'S NAME	Stephanie McQueen / Keith Dingwall
DESIGNATION	Planner / Planning Delivery Team Manager
CONTACT INFO	smcqueen@eastlothian.gov.uk Tel: 01620 827210
DATE	29 April 2019

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

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 stone walls 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/m²; 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/m²; 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/m².

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)