

**PLANNING COMMITTEE**

**4 JUNE 2019**

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

**TUESDAY 7 MAY 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 F O'Donnell  
Councillor J Williamson

**Other Councillors Present:**

Councillor J Goodfellow  
Councillor J Henderson

**Council Officials Present:**

Mr K Dingwall, Team Manager – Planning Delivery  
Ms S McQueen, Planner  
Mr K Graham, Solicitor  
Ms M Haddow, Transportation Planning Officer  
Ms C Dutton, Tourism Officer (Projects)  
Ms P Bristow, Communications Adviser

**Clerk:**

Ms F Currie

**Visitors Present/Addressing the Committee:**

Item 2 – Mr R Finc, Mr P Hanson, Dr C Doldon, Mr S McCashey, Ms S Northrop

**Apologies:**

Councillor W Innes

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 26 MARCH 2019**

The minutes of the meeting of the Planning Committee of 26 March 2019 were approved.

**2. 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**

A report was submitted in relation to Planning Application No. 18/00764/PM. Stephanie McQueen, Planner, presented the report reminding Members that this application had been continued from the Committee's meeting on 26 March to allow issues around the certification of land ownership to be resolved. Ms McQueen summarised the key points of the report and stated that the recommendation was to grant consent for the application.

Ms McQueen responded to a number of questions from Members providing information on the number of jobs to be created by the proposals, the possibility of a future change of use of the site, parking provision on site and turning space for coaches and other large vehicles, requirements for green space, clarification of the Health & Social Care Partnership's comments on the application and the involvement of the Care Inspectorate.

In reply to further questions, Ms McQueen and Keith Dingwall, Team Manager – Planning Delivery, provided clarification of officers' interpretation of policy EMP1 and the potential impact on local businesses. Mr Dingwall reminded Members that commercial competition was not a competent ground for refusal of a planning application.

Mr Rick Finc of Yeoman McAllister, agent for the applicant, summarised the proposals and the material considerations looked at when determining the optimum location for the development. He believed that there was a strong demand for the development and that it would attract high quality companies. He referred to the consultations undertaken with the local community and expressed his disappointment that the Community Council had not supported the proposals and that the local GP practice had not engaged further after the PAN event. He concluded that, in his view, the benefits of the development outweighed any objections.

Mr Finc responded to a range of questions from Members providing further clarification of issues such as the viability of other uses for the site, interest expressed by hotel or care home companies, the number of jobs that would be created and how many of these would be linked to the use of local suppliers. He also provided details of the anticipated demand for hotel business in both the high and low seasons, the other sites considered within the local area, the scope and response to the consultations, staffing for the hotel and care home and the availability of public and other transport options to support shift working.

Claire Dutton, Tourism Officer, confirmed that currently coach operators overlooked East Lothian as it was often difficult for them to find accommodation in one location.

Mr Patrick Hanson spoke against the application. He said that despite living close to the site he had not been formally notified of the proposed development. He expressed concern that the proposals were not in line with planning policy and that they would adversely affect existing businesses in North Berwick. He questioned the choice of that particular site and highlighted what he considered to be a lack of adequate loading and parking facilities.

Dr Clare Doldon spoke against the application. She explained that as part of the GP practice in North Berwick she objected to the development on healthcare grounds and she said that despite attending the initial public event the practice had heard nothing further from

the applicants thereafter. She advised Members that the creation of an additional care home would place a significant strain on existing medical services and she outlined examples of the additional time and resource required for an older patient demographic. She added that current housebuilding meant that the patient list was increasing on a weekly basis and there were concerns about future recruitment and retention of staff within the practice.

Dr Doldon responded to a question from Councillor Goodfellow regarding recruitment and retention of staff and additional monies available for the treatment of elderly or complex cases.

Mr Sean McCashey spoke against the application. As the owner of No.12 Quality Street, he was concerned about the impact on his and similar businesses in North Berwick. He said that it was already difficult to compete with the increase in Airbnb accommodation, particularly in the off-season. He referred to the closure of two hotels and one bed and breakfast business in recent years and said he did not believe that there was sufficient demand to support another hotel in the town. He concluded that, if approved, this development would adversely affect the income and viability of existing businesses.

Ms Sue Northrop of the North Berwick Community Council spoke against the application. She said that the site for this development was unacceptable and would have a negative impact on both the proposed residents and staff, as well as those living nearby. The plans did not take into account the importance of quality of life. She reminded Members that the proposals were not supported by the East Lothian Health & Social Care Partnership (ELHSCP) and went against what they were trying to achieve through a range of housing options within the community. She said that there was at present no demand for additional care home beds and that the strain which this facility would place on local GP services would be to the detriment of existing patients and families.

Ms Northrop responded to questions from Members regarding the site location, demand for care home beds and about providing a choice of care options.

Following questions from Councillor O'Donnell, Mr Dingwall provided advice to Members on whether issues such as lack of demand and the impact on existing medical services would constitute competent grounds for refusal of the planning application. He reminded Members of the recent decision of the Reporter regarding a care home development in Musselburgh which had raised similar issues.

Local Member Councillor Jane Henderson said that, in her view, the site was not suitable for a number of reasons including its size, amenity and ability to provide green space. She also highlighted the fact that the proposed care home was not supported by the ELHSCP. In respect of the proposed hotel, she questioned the potential employment figures and expressed concern about the impact on the local hospitality trade.

Local Member Councillor Jim Goodfellow referred to previous hotels in the area which had closed and were now housing and to previous planning applications which had not come to fruition. He expressed concern that not enough effort had been made to develop the site for business use, despite continuing demand for commercial units. He was also concerned about the lack of adequate parking for emergency vehicles and restricted space for coaches. He urged Members to refuse the application on the grounds of overdevelopment of the site and contravention of policy EMP1.

Local Member Councillor Jeremy Findlay concurred with his colleagues. He did not believe there was sufficient demand for a hotel on this site and that it would conflict with policy EMP1. While he acknowledged that East Lothian needed more care home places he argued that this development was of the wrong type and in the wrong location. He said that the ELHSCP and Integration Joint Board (IJB) had undertaken a lot of work to develop future

care options and this development could have an adverse impact on those proposals as well as on existing local GP services. For these reasons he would not be supporting this application.

Councillor Fiona O'Donnell said that if she were speaking as the Chair of the IJB she would consider the application contrary to the IJB's Strategic Plan. However, she acknowledged that, as member of the Planning Committee, she could not find competent grounds for refusal of the application. She hoped that in the future officers would develop a more joined up approach to reviewing similar applications but, in the meantime, she felt she had no choice but to support the report recommendation.

Councillor Neil Gilbert said that the Committee was here to determine the application solely on planning grounds. He felt that the proposals would be of economic benefit to North Berwick and he noted that there would be an increasing demand for care home places in the coming years. He would be supporting the application.

Councillor John McMillan said that the application had raised a number of issues around demand and choice which related to both aspects of the proposals. He referred to his own experience of hotels and the local tourism sector and the need for a variety of accommodation options. He said he had been moved by the views expressed by the speakers and he shared concerns about the impact on GP resources and the location and amenity of the site. However, he believed that the proposals would bring economic benefit and a potential increase in tourism and he would be supporting the application.

Councillor Colin McGinn said he was particularly grateful for the representations put forward and he shared his colleagues' frustration over the lack of joined up working across certain the areas of healthcare and planning. However, he accepted that the application must be considered under planning rules and he would be supporting the report recommendation.

Councillor Sue Kempson observed that although the impact on medical services was not a planning consideration she felt that Members should represent the community. In her view the impact of an additional care home on existing local GP services would be significant and she would not be supporting the application.

The Convener ended the discussion. He noted that the application had raised a number of issues and that there was a clear difference of opinion within the Committee. However, he reminded Members that any decision must be taken on planning grounds. He believed that if east Lothian was to compete within the tourism market it needed as broad a range of accommodation as possible, including budget hotels. With regard to the care home, he welcomed the HSCP's development of extra care housing but said that it was equally important to provide families with a choice of care options. He would be supporting the recommendation to grant planning permission as set out in the report.

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

For: 7  
Against: 3  
Abstentions: 0

## **Decision**

The Committee agreed to grant planning permission subject to the following conditions:

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

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

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

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

Reason

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

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

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

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

Reason:

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

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

Reason:

In the interest of the prevention of flood risk.

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

Reason:

In the interests of road safety.

- 5 Prior to the commencement of use of the hotel or care home hereby approved a Green Travel Plan to minimise private car trips and to encourage use of alternative modes of transport such as walking, cycling, trains, buses, and car sharing/car clubs shall be submitted to and approved by the Planning Authority. Additionally, the Green Travel Plan shall be very clear on how active travel and public transport information will be promoted to employees and visitors of both the hotel and care home and shall include details of the measures to be provided, the methods of management, monitoring, review, reporting and duration of the Plan.

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

Reason:

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

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

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

Reason:

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

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

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



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

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

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

Reason:

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

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

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

Reason:

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

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

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

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

Reason:

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

- 13 Other than to facilitate the formation of the vehicular and pedestrian accesses hereby approved in accordance with Condition 4, the natural rubble stone wall of the north (roadside) boundary of the site shall be retained at its existing height and in its existing form unless otherwise approved in writing by the Planning Authority.

The stonework of any new length(s) of north (roadside) boundary wall associated with the formation of the vehicular and pedestrian accesses hereby approved shall match as closely as possible the stonework of the existing north (roadside) boundary wall in its colour, texture, coursing, and pointing,

Reason:

To safeguard the contribution the boundary enclosure makes to the character and appearance of the area.

- 14 Prior to the commencement of development on the site, full details of the proposed Sustainable Drainage System (SuDS) for the development shall be submitted to and approved in writing by the Planning Authority.

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

Thereafter, the approved details shall be implemented as approved.

Reason:

To ensure that the final SuDS design complies with Sewers for Scotland 4 (as revised) and can be vested by Scottish Water in the interest of flood prevention, environmental protection and the long term amenity of the area.

- 15 Other than the fourteen trees on the north (roadside) boundary of the site, the four trees on the west boundary of the site and the short length of beech hedging located towards the eastern side of the site that are to be removed, as detailed on drawing no. 1161/03 and in the Tree Survey and Arboricultural Impact Assessment (August 2018 - Rev A) docketed to this grant of planning permission, all other existing trees on the application site shall be retained and shall not be damaged or uprooted, felled, lopped or topped without the prior written consent of the Planning Authority.

Reason:

In order to ensure the retention and health of trees or shrubs on and adjacent to the application site which are important to the landscape character of the area.

- 16 A method statement, supported by an arboriculturist, detailing the installation and specification of the continuous tree root barrier and new tree planting along the southern half of the west boundary of the site with the cemetery shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development. Thereafter, the method statement as so approved shall be implemented unless otherwise agreed in writing by the Planning Authority.

An arboriculturist shall be retained on site to supervise the installation of the continuous tree root barrier and tree planting operations in accordance with the approved method statement. A detailed report with dated photographic evidence showing the installation of the full length of tree root barrier prior to backfilling, and on completion of backfilling, shall be submitted to the Planning Authority no more than 14 days from the completion of such works.

Reason:

In order to ensure the implementation of landscaping in the interests of the character and appearance of the area.

- 17 All tree works, including felling, planting and protection of the existing trees of the site shall be carried out in accordance with the Tree Survey and Arboricultural Impact Assessment (August 2018 - Rev A) carried out by Brindley Associates docketed to this grant of Planning Permission, and including the requirements of Conditions 16 and 19, unless the Planning Authority agrees to a variation.

All tree planting comprised in the Tree Survey and Arboricultural Impact Assessment (August 2018 - Rev A) and the Planting Notes and Landscape Maintenance and Management Proposals February 2019, and as shown on drawing nos. 1161/03 Rev B and 1161/103 Rev A, both docketed to this grant of Planning Permission, and as required by Conditions 16 and 19 shall be carried out in the first planting and seeding season (October - March) following the completion of the either the hotel or care home buildings hereby approved or the occupation of either of them, whichever is the sooner.

In the event that any such new tree(s) and shrub planting or any existing trees or plants die, are removed, or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the retention of and health of trees or shrubs on the application site which are important to the landscape character and amenity of the area and to ensure the implementation of landscaping in the interests of the character and appearance of the area.

- 18 No development shall take place on the site until temporary protective fencing has been erected and installed and confirmed in writing by the Planning Authority to protect the retained trees on the eastern and western boundaries of the site. The temporary protective fencing shall be erected in the positions shown for it on drawing no. 1161/03 and in accordance with the details for it set out in the Tree Survey

and Arboricultural Impact Assessment August 2018 Rev A, both docketed to this grant of planning permission, unless otherwise approved in writing by the Planning Authority.

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

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

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

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

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

Reason:

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

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

In the event that any such new tree(s) or shrub planting or any existing trees or plants of the landscape planting scheme for the site, die, are removed, or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the retention of and health of trees or shrubs on the application site which are important to the landscape character and amenity of the area and to ensure the implementation of landscaping in the interests of the character and appearance of the area.

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

- If evidence of Bats is discovered at any time during demolition works, then works shall halt immediately and advice shall be sought from Brindley Associates Ltd and/or Scottish Natural Heritage prior to works commencing on the site;
- The site works shall be undertaken outwith the active time of day for Bats (i.e. start no earlier than 2 hours after sunrise and cease no later than 2 hours prior to sunset);
- Any temporary lights used during demolition or construction works associated with the development hereby approved shall be fitted with shades to prevent light spillage outside the working area and any temporary light(s) shall not illuminate the surrounding tree lines as lighting can affect wildlife commuting and foraging;
- If works at the site do not commence prior to 26/06/2019 then a further Bat Activity survey shall be commissioned for completion during the bat activity season to ascertain the current situation regarding Bat Activity and any recommended remediation shall be carried out in accordance with that updated Bat Activity survey;

- If works at the site do not commence prior to 12/10/2019 then a further Bat Roost Assessment survey shall be commissioned for completion during the bat activity season to ascertain the current situation regarding Bat Roosts and any recommended remediation shall be carried out in accordance with that updated Bat Roost Assessment survey;
- Due to the presence of suitable nesting habitat, it is recommended, if required, that the site trees, scrub and buildings are worked upon outside of the bird nesting season (March to September, inclusive). Where this is not possible, and works are due to take place between March to September, then nesting bird checks should be undertaken by a suitably qualified ecologist, immediately prior to the tree, scrub or demolition works commencing. The results of each check are valid for three days including the date of the survey, after which further checks will be required to ascertain that the situation with regards to nesting birds has not changed;
- No works shall occur to the site buildings that would damage or destroy an active nest. Active nests can be found in any month of the year. An inspection should be undertaken by a suitably qualified ecologist using a ladder or cherry picker, immediately before works commence on the existing site buildings to establish the existence of any active nests. In the event of an active nest(s) being found, works should cease until any young have fledged the nest; and
- If works at the site do not commence prior to 30/05/2019 then a further Preliminary Ecological Appraisal shall be commissioned to ascertain the current situation regarding protected species and any recommended remediation shall be carried out in accordance with that updated Preliminary Ecological Appraisal.

Reason:

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

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

Reason:

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

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

Reason:

In order to ensure the retention of and health of trees or shrubs on the application site which are important to the landscape character and amenity of the area and to ensure the implementation of landscaping in the interests of the character and appearance of the area.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 4 June 2019  
**BY:** Depute Chief Executive (Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

**2**

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Application No. **18/01283/AMM**

Proposal Approval of matters specified in conditions of planning permission in principle 14/00903/PPM - Erection of 74 houses, 16 flats and associated works

Location **Area 7 Land South  
Faside Terrace  
Wallyford  
East Lothian**

Applicant East Lothian Developments Limited

Per Holder Planning

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

Although this application is for the approval of matters specified in conditions of planning permission in principle 14/00903/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the number of dwellings detailed is greater than 49. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

On 30 November 2009 planning permission in principle (Ref: 09/00222/OUT) was granted for a mixed use development on some 86 hectares of predominantly agricultural land to the east, south and southwest of Wallyford. The site included Wallyford Community Woodland, the public roads of Salters Road and Inchview Road, and land to the south of Fa'side Avenue South, to the south of the existing village. The land is the strategic housing site of Proposal H7 of the adopted East Lothian Local Plan 2008.

Planning permission in principle (Ref: 12/00924/PPM) was subsequently sought for the renewal of planning permission in principle 09/00222/OUT, as submitted to the Council on 26 November 2012. On 1 April 2014 the Council resolved to approve the application subject to the required Section 75 Agreement and planning permission in principle was duly granted with conditions on 14 November 2014 following the registration of that agreement.

Subsequent to this the applicant sought and was granted permission for the following variations to the conditions of planning permission in principle 12/00924/PPM:

- Variation of condition 2 of planning permission in principle 12/00924/PPM to allow for the development and occupation of residential units from both the western (A6094 - Salters Road) and northern (A199) ends of the site (Ref: 14/00913/PM);
- Variation of condition 5 of planning permission in principle 12/00924/PPM to allow for up to 90 units to be completed in Year 1, up to 150 units in Year 2, up to 150 units in Year 3 and up to 60 units in Year 8 (Ref: 14/00916/PM).

In September 2015 planning permission in principle (Ref: 14/00903/PPM) was granted for amendments to planning permission in principle 12/00924/PPM, including an increase in number of residential units from 1050 up to a maximum of 1450, relocation and redesign of open space, development for residential purposes of areas previously proposed as open space and relocation and redesign of the proposed local centre.

The elements of the approved mixed use development include residential development, community buildings including a new school and community facilities, office units, a restaurant, business units, general industrial units, storage and distributions units, trade counter units, a residential institution, a non-residential institution, hot food takeaways, playing fields, open space, allotments, landscaping and associated infrastructure provision.

Condition 1 of planning permission in principle 14/00903/PPM requires that the development of the site should generally accord with the indicative masterplan docketed to this planning permission in principle.

Condition 4 states that no more than 1450 residential units shall be erected on the application site.

In October 2015 approval of matters specified in conditions (Ref: 15/00136/AMM) was granted for infrastructure associated with the residential development of the Wallyford site. The approved infrastructure includes the formation of a spine road that will provide access to much of the larger Wallyford development. Development of the infrastructure has commenced.

In October 2016 approval of matters specified in conditions (Ref:16/00537/AMC) was granted for the erection of 26 houses and 16 flats on land to the south of Fa'side Avenue South. Development of the site has commenced.

In September 2017 approval of matters specified in conditions (Ref:17/00384/AMM) was granted for the erection of 185 houses on land to the east side of Wallyford - to the east of the new spine road approved by the grant of approval of matters specified in conditions (ref: 15/00136/AMM). Development of the site has not yet commenced.

In November 2017 approval of matters specified in conditions (Ref:17/00432/AMM)

was granted for the erection of 245 houses on land to the southwest of Wallyford and thus on part of the larger site to which planning permission in principle ref: 14/00903/PPM and the masterplan docketed to that permission,

The approval of matters specified in conditions now sought is for the erection of 74 houses and 16 flats on land to the southwest of Wallyford and thus on part of the larger site to which planning permission in principle ref: 14/00903/PPM and the masterplan docketed to that permission apply.

When the application was originally submitted, the development proposed comprised of 150 affordable housing units. However subsequent to the registration of this application, further drawings were submitted showing revisions to the site layout including a change to the number and mix of residential units reducing it from 150 wholly affordable units to 90 units comprising 60 affordable units and 30 for private market sale. Neighbours were re-notified of the amended application.

The site is bounded to the east by a public footpath with an area of woodland beyond, to the west by existing residential properties of Fa'side Terrace, and to the north by existing residential properties of Fa'side Avenue North. To the south of the site is the main spine road that was constructed as part of the masterplan and which was approved by the grant of approval of matters specified in conditions 15/00136/AMM.

Vehicular access to the 90 residential units would be taken from the new spine road via 2 access points that have been formed on the north side of that spine road. Additionally an access point would be formed to provide access from the south side of Fa Side Avenue North into the site.

Of the 90 residential units to be erected within the site 60 would be for affordable housing and 30 would be for private houses for sale. The 30 houses for private sale would be detached houses, all of which would have 4 bedrooms. They would comprise a mix of 4 different house types.

The 60 affordable units would comprise 16 cottage flats, 16 terraced houses, 26 semi-detached houses and 2 semi-detached bungalows. Of these 4 of the cottage flats would contain 1 bedroom and the other 12 cottage flats would contain 2 bedrooms. The 16 terraced houses would all contain 2 bedrooms. Twenty of the semi detached houses would contain 3 bedrooms, with the other 6 containing 4 bedrooms. The 2 semi detached bungalows would both contain 2 bedrooms.

Other than the 2 bungalows all the houses would be two-storey in height.

The submitted details also include for the internal access roads, garages, parking courts, boundary treatments, landscaping, SUDS and associated area of open space.

The application is supported by a Design and Access Statement.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) of relevance. Proposal MH9 and Policies DP1 (Landscape Character), DP2

(Design), T1 (Development Location and Accessibility), T2 (General Transport Impact) and OS3 of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the planning application.

Also material to the determination of this application is the Scottish Government Policy Statement entitled "Designing Streets". It provides an overview of creating places, with street design as a key consideration. It advises on the detail of how to approach the creation of well-designed streets and describes the processes which should be followed in order to achieve the best outcomes.

Also material to the determination of the application is the approved development framework for Wallyford. The framework sets out the land uses expected for the allocated site and how the Council requires the site to be developed.

There are two written representations received in respect of this application. The main grounds of objection are:

- (i) The proposed flatted blocks may cause overshadowing to neighbouring residential properties;
- (ii) Due to their height the proposed flatted block would allow for overlooking of private gardens of neighbouring houses;
- (iii) The car park at the back of block 1 would compromise security;
- (iv) There is already ongoing anti social behaviour and the block of flats will exacerbate this;
- (v) The creation and use of an access from Fa'Side Avenue North will create a safety risk to vulnerable members of society which is already overwhelmed with traffic and will cause additional parking and traffic problems;
- (vi) The storm block storage system may cause damage to nearby properties due to flooding and may affect insurance premiums.

Concerns regarding ongoing anti social behaviour and an increase in insurance premiums are not material planning considerations in the determination of this planning application.

Through the reduction in numbers of units on the site and a revision of the site layout the flatted blocks and associated car park have been deleted from the application. There would be no buildings on the site that would be more than 2 storey in height.

Access to the site will be taken from Fa'Side Avenue North in accordance with the site layout plan (Ref: 17052(PL)001Z) approved through the grant of planning permission in principle 14/00903/PPM. The Council's Road Services raise no objection to the use of this access. To safeguard the residential amenity of the occupants of the houses of Fa'Side Avenue North it should be made a condition of a grant of approval of matters that no construction access is taken from Fa Side Avenue North. A similar condition was attached to approval of matters 17/00432/AMM to safeguard the residential amenity of the occupants of Fa'Side Avenue South.

Wallyford Community Council were consulted on the application but did not provide a consultation response

By the grant of planning permission in principle 14/00903/PPM, approval has been given for the principle of the erection of 1450 houses on the application site following technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. To date, approval (Ref: 16/00537/AMC, 17/00384/AMM and 17/00432/AMM) has been



granted for the erection of a total of 472 residential units on the site. There can therefore be no objection in principle to the erection of the 90 houses now proposed on this particular part of the site.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development, the landscaping of and means of access to the site and the means of any enclosure of the boundaries of the site. In this regard the detailed proposals have to be considered against relevant development plan policy and conditions attached to planning permission in principle 14/00903/PPM.

The proposed residential development would be located adjacent to part of the southern edge of Wallyford. The proposed houses and flats would be seen as a continuation of the existing housing of Fa'Side Avenue North to the north and Fa'Side Terrace to the west. The proposed residential development would in its relationship with that existing housing be seen a natural extension of Wallyford. It would also eventually be seen in relation to new housing that will be constructed to the south of the application site, which is still to be developed but which forms part of the wider Wallyford development approved by the grant of planning permission in principle 14/00903/PPM. Moreover, the woodland to the east of the site would give visual containment to the proposed residential development in views of it. In all of the this proposed residential development would be sympathetic to and would not be out of keeping with the character of Wallyford or with other recent housing developments in the Wallyford area.

The details now submitted for approval are for a scheme of development comprising a mix of detached, semi-detached, terraced houses and cottage flats (10 types of residential units), with the houses and flats being largely two stories in height. The total number of units proposed accords with the planning permission in principle granted for this part of the site and the mix of residential units includes a range of sizes and types. The layout reflects the surrounding area, which is generally characterised by detached, semi-detached and terraced houses of a mix of single and two-storey. The density of development, at some 30 units per hectare, is consistent with the Density Plan drawing docketed to planning permission in principle 14/00903/PPM, which stated that density would be between 26-31 units per hectare.

The range of house types proposed would give a variation of architectural form to the development, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development. The architecture of the proposed houses is of a traditional pitched roof form. It should be ensured that the use of render is the predominant wall finish as this would respect the built form of other housing developments in Wallyford. A condition can be imposed on a grant of approval of matters specified in conditions for the proposed development to address these matters of wall finishes.

The proposed layout is broadly consistent with the layout shown in the Design Concept docketed to planning permission in principle 14/00903/PPM. The houses due to their positioning on the application site and by virtue of their height, size and scale, would not appear incongruous in their landscape setting. This coupled with the proposed landscaping would ensure a visually attractive and cohesive development, with the proposed houses visible but not appearing intrusive in their surroundings. The other components of the proposed development would not be harmful to the character and appearance of the area.

The proposed housing development would provide an attractive residential

environment for future residents of the proposed houses. The houses and flats are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses and flats an appropriate level of privacy and residential amenity.

The application site is capable of accommodating all of the houses without being an overdevelopment of the site and without being incompatible with the density of existing housing development in the area.

The Council's Landscape Project officer raises no objections to the proposals being satisfied that the submitted detailed scheme of landscaping and its future management is acceptable.

Condition 20 of planning permission in principal 14/00903/PP requires the submission by the applicant of all noise mitigation measures based on the mitigation measures identified in the Environmental Statement and designed so that the 'good standard' indoor levels from Table 5 of BS 8233 Sound Insulation and Noise Reduction for Buildings- Code of Practice are met inside the proposed residential units. The mitigation measures include the erection of an acoustic barrier along the southern boundary of the site and included a timetable for the implementation of all of the proposed noise mitigation measures.

Furthermore, Condition 3 of approval of matters specified in conditions ref 15/00136/AMM requires the submission of a timetable for the implementation of all of the proposed noise mitigation measures and states that the acoustic barrier be provided prior to the occupation of any part of the development unless otherwise agreed with the Council as Planning Authority. The provision of acoustic glazing, will be provided prior to the occupation of any dwelling house within the scheme where such measures have been proposed unless otherwise agreed with the Council as Planning Authority.

Subject to the noise mitigation measures alluded to in the planning conditions above being implemented prior to the occupation of any of the houses the subject of this approval of matters The Council's Environmental Health Manager raises no objection to the housing development now proposed.

On all of these foregoing findings on matters of design, density, layout, landscaping and amenity the details submitted for approval are consistent with Policies DP1, DP2 and DP8 of the adopted East Lothian Local Development Plan 2018 and the Council's approved development framework for Wallyford.

The masterplan docketed to planning permission in principle 14/00903/PPM indicates how areas of formal and informal open space, including two community sports pitches, could be located throughout the allocated site.

The site that is the subject of this approval of matters application includes land shown on the docketed masterplan as being the location for areas of open space. It does not however show areas for play area provision or for sports pitch provision, as they are to be provided elsewhere in the larger site. Consequently, although the proposed development does not include the provision of formal play area provision, this is consistent with the docketed masterplan.

The largest area of open space is to be provided within the northern part of the application site. The proposed size and location of open space is consistent with Policy

OS3 of the adopted East Lothian Local Development Plan 2018 and with the indicative masterplan docketed to planning permission in principle 14/00903/PPM. The site is also in close proximity to the Community Woodland which will provide opportunities for outdoor recreation for the residents of the wider Wallyford site including the future occupants of this site.

The principles of the means of accessing of the proposed housing area are already decided by the grant of planning permission in principle 14/00903/PPM. These include vehicular access to the proposed site being taken from the new distributor road approved by the grant of Approval of Matters Specified in Condition 15/00136/AMM and also from a vehicular accesses to be taken from Fa'Side Avenue north.

The submitted details for accessing the site are in accordance with these established principles of the means of accessing the development.

The Council's Road Services raise no objection to the submitted details, being generally satisfied with the proposed means of pedestrian and vehicular access and the number and location of parking spaces proposed. They do however make recommendations on the standards of provision.

They recommend that:

- (i) all adoptable footpaths shall be 2m wide;
- (ii) 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;
- (iii) within 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;
- (iv) all prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay;
- (v) Vehicle access to private parking areas shall be via a reinforced footway crossing and have a minimum width of 5.5m over the first 10m to enable adequate two movement of vehicles;

All of these requirements can reasonably be made conditions of the approval of matters specified in conditions for the proposed housing development.

On these foregoing transportation and other access considerations the proposed residential development is consistent with Policies T1 and T2, of the adopted East Lothian Local Development Plan 2018.

The mechanism of a financial contribution towards additional educational provision for a housing development of 1450 residential units has already been secured through the grant of planning permission in principle 14/00903/PPM.

The mechanism of the provision within the residential development of 1450 residential units of 25% affordable housing (i.e. 363 units of the proposed 1450 units) is already

secured through the Section 75 agreement associated with the grant of planning permission in principle 14/00903/PPM. Additionally, the plan docketed to the Section 75 agreement indicates the parts of the overall Wallyford development site that will provide for affordable housing. The lead developer, East Lothian Developments Limited, has intimated that it wishes to amend the areas shown in the Section 75 for affordable housing and discussions on the detail of those changes is ongoing with officers. The area of the site now under consideration is not designated in the Section 75 agreement for affordable housing provision. However if permission were to be granted the provision of the 60 affordable units and 30 market houses it would not compromise the capability of delivering the required number of affordable housing units in appropriate locations throughout the overall site, given that land for some 866 units remains available for development. The Council's Economic Development and Strategic Investment Manager advises that the size, tenure and house type of the 60 affordable units proposed are acceptable.

SEPA raise no objection to the 90 residential units now proposed.

The Council's Team Manager for Structures, Flooding & Street Lighting raises no objection to the application.

Scottish Water raise no objection to the application.

#### RECOMMENDATION:

That approval of matters specified in conditions for the proposed residential development be granted subject to the following conditions:

- 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 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 houses 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.

- 2 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions, a detailed specification of all external finishes of the houses of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the houses shall conform to the details so approved.

Notwithstanding that stated on the docketed drawings a number of the houses of the development shall have hipped roofs. Details of the form and location of the hipped roofed

houses shall be submitted to and approved by the Planning Authority. Thereafter those hipped roof houses shall be built in accordance with the details so approved unless otherwise agreed by the Planning Authority.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 3 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces and footpaths shall have been constructed on site, in accordance with the docketed drawings and those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

- 4 The residential scheme of development shall comply with the following transportation requirements:

(i) all adoptable footpaths shall be 2m wide;

(ii) 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;

(iii) within 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;

(iv) all prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay;

(v) Vehicle access to private parking areas shall be via a reinforced footway crossing and have a minimum width of 5.5m over the first 10m to enable adequate two movement of vehicles;

Reason:

In the interests of road safety.

- 5 Notwithstanding that shown on the drawings docketed to this approval of matters, all semi private and defensible spaces in front of or to the side of dwellings and to the side of parking courtyards shall be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space.

Details of the form and appearance of all boundary treatments, including the 1.8m high fences within the rear gardens of the houses, shall be submitted to and approved by the Planning Authority prior to the occupation of the first house. A timetable for the provision of those boundary treatments shall be submitted to and approved in advance by the Planning Authority and shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of appropriate boundary enclosures and in the interest of safeguarding the privacy and amenity of future residents of the development.

- 6 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 10 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.

- 7 All of the approved landscaping as detailed in the landscape drawings docketed to this approval of matters and required by condition 6 above shall be implemented, maintained and managed in

accordance with the management details approved by the landscaping scheme unless otherwise agreed in writing by the Planning Authority.

Reason:

In order to ensure the maintenance and management of the landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 8 Prior to the occupation of any of the residential units hereby approved a timetable for the implementation of all the open space recreation areas indicated on the docketed site layout plan shall be submitted to and approved in advance by the Planning Authority and the open space recreation areas shall be formed and made available for use in accordance with the timetable so approved.

The open space recreation areas shall thereafter be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory laying out of all areas of open space in the interest of the amenity of the future occupants of the dwellings hereby approved.

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

Reason:

In the interest of road safety.

- 10 Construction traffic shall neither access nor egress the application site to or from Fa'side Avenue North, unless otherwise approved by the Planning Authority.

Reason:

To safeguard the amenity of the occupants of the houses of Fa'Side Avenue North and in the interests of road safety.

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





**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 4 June 2019  
**BY:** Depute Chief Executive (Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

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**3**

Application No. **19/00285/PM**

Proposal Variations of Conditions 4-12, 14-15 and addition of a condition relating to the method statement for the construction of the borehole within area S of planning permission 15/00634/PM to allow phased development works, in respect of the formation of onshore electrical transmission infrastructure between Thorntonloch and Crystal Rig II

Location **Land Between Thorntonloch And Crystal Rig Wind Farm  
Dunbar  
East Lothian**

Applicant Neart Na Gaoithe Offshore Wind Limited

Per Young Planning & Energy Consenting

**RECOMMENDATION** Consent Granted

#### PLANNING ASSESSMENT

The site that is the subject of this planning application has an area of some 62.4 hectares and is located to the south and southeast of Dunbar. It has a generally linear shape and extends from Thorntonloch beach to the existing electrical sub-station located within the Crystal Rig II wind farm, a distance of some 12.3km.

The part of the site at Thorntonloch beach is within the Thorntonloch Coastline Area of Great Landscape Value. The southwest part of the site, adjacent to the existing electrical sub-station of the Crystal Rig II wind farm, is within the Lammermuir Hills Area of Great Landscape Value.

In October 2014 Mainstream Renewable Power Limited received consent under Section 36 of the Electricity Act 1989 for the erection of an off-shore wind farm, to be known as the Neart Na Gaoithe wind farm. It would be located some 28km northeast of Dunbar and

some 32km northeast of North Berwick. Development of the off-shore wind farm has not yet commenced.

In June 2013 planning permission (Ref: 12/00922/PM) was granted for the formation of onshore electrical transmission infrastructure between Thorntonloch beach and the existing electrical sub-station located within the Crystal Rig II wind farm, over a distance of some 12.3km. That site is the same as the site that is the subject of this planning application. The onshore electrical transmission infrastructure is required to enable the proposed Neart Na Gaoithe wind farm to connect into the national electricity grid. The approved infrastructure includes on-shore cables, which would run underground from Thorntonloch beach to Crystal Rig, and an electrical sub-station, which would be positioned adjacent to the existing substation located within the Crystal Rig II wind farm. Planning permission 12/00922/PM was granted subject to 15 conditions.

In November 2015 planning permission (Ref 15/00634/PM) was granted for variations of Conditions 4, 7, 8, 9, 10, 11, 12, and 15 of planning permission 12/00922/PM to allow phased development works, in respect of the formation of onshore electrical transmission infrastructure between Thorntonloch and Crystal Rig II again to enable the Neart na Gaoithe wind farm to connect to the grid. Given that the conditions attached to this consent required discharge prior to the commencement of the development the proposal sought to amend the conditions to allow time to ensure access for surveys of the relevant land in a timeframe that was consistent with the programme for discharging the conditions. In the absence of access to certain parts of the site for the purpose of undertaking survey work required by the conditions, the applicant had proposed a phased approach to onshore development works in order to meet a challenging development and construction programme. Planning permission 15/00634/PM was again granted subject to 15 conditions.

Of these, conditions 4-12 and 14-15 stipulate that:

“4 (I) Prior to the commencement of the development hereby approved within Area A and Area S, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA, SNH and, in respect of issues relating to the inter-tidal area, Marine Scotland.

The CEMP shall, unless otherwise agreed with the Planning Authority in writing, include the following details as they relate to Area A and Area S:

(a) Construction Method Statements, which shall include details of the crossing methods to be utilised along the cable route including, if appropriate, the placing in ducts of any cables laid under public roads.

The Construction Method Statements shall also recommend mitigation measures to control noise and shall include hours of operation for construction work;

(b) Pollution prevention monitoring and mitigation measures for all construction activities;

(c) Reinstatement following the completion of the construction of the cable route, including the reinstatement of agricultural land, drainage systems and landscape resources;

(d) Dust and air quality management plan;

(e) Soil resource management plan, including a map showing locations of stockpiles of excavated materials, details of use and/or disposal of unsuitable subsoil, details of the management and mitigation of soil resources in accordance with best practice;

(f) Construction noise and vibration management plan, including identification of access routes, locations of laydown areas, equipment details, details of operation, scheduling or works, mitigation measures and a scheme for noise monitoring in the event of complaints;

(g) Habitat resource management plan for the cable route and substation, including details of tree/hedgerow removals and replacements, and the use of protective fencing and ground protection (in accordance with BS5837\_2012 "Trees in relation to design, demolition and construction ~ Recommendations"), tree root protection methods, and other appropriate mitigation measures;

(h) Peat Management Plan; and

(i) The installation approach (i.e. horizontal directional drilling or open cut trenching) for the cable landfall area at Thorntonloch beach.

(II) Thereafter, prior to the commencement of the development hereby approved within Area B, an Addendum to the CEMP which provides details specific to Area B which have not previously been submitted in (I), shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA, SNH and, in respect of issues relating to the inter-tidal area, Marine Scotland. The CEMP shall, unless otherwise approved by the Planning Authority in writing, include the details listed at Condition 4 (I) as they relate specifically to Area B; and

(III) The development shall thereafter be carried out in accordance with the approved CEMP (including Addendum) unless otherwise agreed with the Planning Authority in writing. For the avoidance of doubt, no development shall take place within Areas A, B or S, without details (a)-(i) as they relate to such specific area(s) having first been approved in accordance with the procedures described at (I).

Reason:

To minimise environmental impacts during the construction phase of the development.

5 Prior to the commencement of the development hereby approved an Access Management Plan (AMP) shall be submitted to and approved in writing by the Planning Authority after consultation with SNH. The Access Management Plan shall detail proposals for maintaining and managing public access across the application site during the period of the development without compromising applicable health and safety requirements.

The development shall thereafter be carried out in accordance with the approved Access Management Plan unless otherwise agreed with the Planning Authority in writing.

Reason:

To minimise the impact the development on public access across the application site.

6 Prior to the commencement of the development hereby approved, a Traffic Management Plan (TMP) for the construction phase of the development shall be submitted to and approved in writing by the Planning Authority, after consultation with Transport Scotland. The TMP shall, unless otherwise agreed with the Planning Authority in writing, include the following details:

a) details of identified routes to and from the construction site;

b) details of construction compounds and details of construction access points;

- c) specific arrangements relating to the transportation of abnormal loads and procedures to ensure pedestrian safety adjacent to working areas;
- d) arrangements for minimising disruption to road users and pedestrians in those locations where open cut trenching crosses a public or private road;
- e) details of any off-site mitigation works;
- f) co-ordination of traffic movements with other major transport users;
- g) arrangements for the cleaning of wheels and chassis of construction traffic to prevent material being carried onto the public road;
- h) details of temporary construction car parks associated with the construction compounds;
- i) details of trees to be protected from construction traffic in accordance with BS5837:2012;
- j) a condition dilapidation survey, the scope of which will be agreed in advance with East Lothian Council; and
- k) A Green Travel Plan to include measures to minimise dependency on the private car to and from the construction compounds.

The TMP shall also include vehicle tracking and swept path analysis for vehicles entering and exiting the site and details of the provision of visibility splays at all vehicular accesses. It shall also include details of any road closures and suitable alternative routes during the road closures.

The development shall thereafter be carried out in accordance with the approved TMP unless otherwise agreed with the Planning Authority in writing.

Reason:

In the interests of road safety.

7 (i) Prior to the commencement of the development hereby approved within Area A and Area S, a Site Waste Management Plan (SWMP) shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA. The SWMP shall, unless otherwise agreed with the Planning Authority in writing, include the following details as they relate to Area A and Area S:

- (a) Details of the waste management measures to be implemented during the construction phase, including the steps to be taken to maximise the quantity of waste to be re-used and recycled;
- (b) The types and quantities of waste expected to arise during the construction phase of the Development;
- (c) The identification of the contractors to be used to ensure the waste is correctly recycled or disposed of responsibly and legally;
- (d) Information on how the quantity of waste will be measured; and

(e) Identification of responsible personnel.

(ii) Thereafter, prior to the commencement of the development hereby approved within Area B, an Addendum to the SWMP which provides details specific to Area B which have not previously been submitted in (i), shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA. The Addendum shall provide the details referenced in (i) as they relate to Area B; and

(iii) The development shall be carried out in accordance with the approved SWMP (including Addendum) unless otherwise agreed with the Planning Authority in writing. For the avoidance of doubt, no development shall take place within Areas A, B or S, without details (a)-(e) as they relate to such specific area(s) having first been approved in accordance with the procedures described at (i).

Reason:

In order to minimise waste during construction and to ensure that it is properly managed.

8 Prior to the commencement of the development hereby approved within Area S, the following details, including proposed timescales, shall be submitted to and approved in writing by the Planning Authority, after consultation with SNH:

(a) The siting, design, external appearance and dimensions of the substation and any another permanent above-ground features, and a schedule of materials and finishes; and

(b) The proposed levels of any earthworks and the design of permanent fencing and boundary walls.

The development of Area S shall thereafter be carried out in accordance with the approved details unless otherwise agreed with the Planning Authority in writing.

Reason:

In the interests of the landscape character and appearance of the Lammermuir Hills Area of Great Landscape Value.

9 (i) No development shall take place within Area A and Area S until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping as it relates to Area A and Area S. The scheme 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.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five 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.

(ii) Thereafter, prior to the commencement of the development hereby approved within Area B, an Addendum to the scheme of landscaping which provides details specific to Area B which have not previously been submitted in (i), shall be submitted to and

approved in writing by the Planning Authority. The Addendum shall provide the details referenced in (i) as they relate to Area B.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five 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; and

(iii) For the avoidance of doubt, no development shall take place within Areas A, B or S, without a scheme of landscaping in respect of such area(s) having first been approved in accordance with the procedures described at (i).

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.

10 Prior to the commencement of the development hereby approved within Area S, a substation drainage strategy shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA. Thereafter, the development shall be carried out in accordance with the approved drainage strategy unless otherwise agreed with the Planning Authority in writing.

Reason:

To ensure that a suitable drainage strategy is implemented.

11 (i) Prior to the commencement of the development hereby approved within Area A and Area S, a survey of European Protected Species (EPS) will be carried out within Area A and Area S. Based on the findings of these surveys, if required, a Protected Species Management Plan shall be submitted to and approved in writing by the Planning Authority after consultation with SNH. The Protected Species Management Plan shall include mitigation measures designed to safeguard any EPS within Area A and Area S. During the construction phase of the development regular monitoring of the mitigation measures (where required) in the Protected Species Management Plan shall be carried out by the Company, or its representative.

(ii) Thereafter, prior to the commencement of the development hereby approved within Area B, a survey of EPS will be carried out within that Area. Based on the findings of these surveys, if required, a Protected Species Management Plan which provides details specific to Area B which have not previously been submitted in (i), shall be submitted to and approved in writing by the Planning Authority after consultation with SNH. The Protected Species Management Plan shall include mitigation measures designed to safeguard any EPS within Area B. During the construction phase of the development regular monitoring of the mitigation measures (where required) in the Protected Species Management Plan shall be carried out by the Company, or its representative; and

(iii) The development shall thereafter be carried out in accordance with the approved Protected Species Management Plan (s) unless otherwise agreed with the Planning Authority in writing. For the avoidance of doubt, no development shall take place within Areas A, B or S, without such surveys being undertaken and (where required) such mitigation being in place within such area(s).

Reason:

To minimise disturbance to protected species during the construction phase of the development.

12 (i) No development shall take place within Area A and Area S until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work within Area A and Area S, in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

(ii) Thereafter, no development shall take place within Area B until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work within Area B, in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority; and

(iii) For the avoidance of doubt, no development shall take place within Areas A, B or S, without the implementation of an approved programme of archaeological work within such area(s).

Reason:

To facilitate an acceptable archaeological investigation of the site.

14 Prior to the commencement of the development hereby approved, proposals for the realignment of existing access tracks shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be carried out in accordance with approved details unless otherwise agreed with the Planning Authority in writing.

Reason:

To minimise the impact the development on public access within and across the application site.

15 Prior to commencement of the development hereby approved within Area A, a detailed method statement for the cables crossing under the A1 trunk road should be submitted to and approved by the Planning Authority following consultation with Transport Scotland.

The development shall thereafter proceed in accordance with the details so approved.

Reason:

In the interests of road safety”.

In July 2016 a non-material variation was approved to planning permission 15/00634/PM. This was to enable the installation of a concrete duct block underneath the location of the proposed new Torness cables, prior to the new Torness cables being installed and prior to the remainder of the approved electrical transmission infrastructure being formed.

Planning permission is now sought through this application for variations of Conditions 4-12 and 14-15 and for the imposition of an additional condition relating to the method statement for the construction of the borehole within area S of planning permission 15/00634/PM to allow phased development works, in respect of the formation of onshore electrical transmission infrastructure between Thorntonloch and Crystal Rig II.

A statement has been submitted with the application. It informs that the development described within the planning permission falls within the scope of national development

number 4, as defined within National Planning Framework 3 (NPF3). National development status is recognition of the national significance of the approved development as part of the wider Neart na Gaoithe Offshore Wind Farm, and extends to amendments to planning permissions relating to national development, such as those which form the basis of this S42 application.

The S42 comprises three elements:

1. Definition of an initial phase of "enabling works", a series of preparatory works which, under the variations proposed to conditions 4-12, 14 and 15, which could proceed prior to the full details of the development being agreed through the parallel discharge of conditions process;
2. Inclusion of a new condition requiring a construction method statement for the borehole to be located within the substation site (Area S); and
3. Redefinition of Areas B and S as referenced throughout the planning permission, reverting back to the original delineation of Area S. Previous discussions with East Lothian Council (ELC) have indicated that this redefinition is non-material in its nature, but due to procedural complications of parallel S42 application and non-material amendment, both of which would propose alternative wording of conditions, it is proposed that the amendment be included within the S42 application.

Submitted site plans show the extent of those three areas of land.

The proposed variations to conditions included within this S42 application are part of wider proposed amendments to the previously approved onshore electrical transmission infrastructure associated with Neart na Gaoithe Offshore Wind Farm. The proposed amendments include elements subject to separate planning processes, which have been discussed with East Lothian Council. The proposed amendments were the subject of a request for an Environmental Impact Assessment Screening Opinion, submitted to East Lothian Council on the 22nd March 2019. The Screening Opinion issued by the Council on the 01st May 2019 concluded that the proposed development does not constitute 'EIA development' and that EIA is not required, in accordance with the EIA Regulations. As such, the proposed amendments would not result in significant environmental effects.

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.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) or the adopted East Lothian Local Development Plan 2018 relevant to the determination of this application.

One letter of representation has been received. They do not state whether they object to or support the proposals. A copy of the letter of representation is contained in a shared electronic folder to which all Members of the Committee have had access.

The representation states that the roads in the area from Thurston Manor up the hill towards Crystal Rig/Aikengall winds farms are in a poor state of repair. The representee attributes this to heavy good vehicles/plant machinery operating on the roads in service



of the wind farm, that these rural B roads were never designed to carry. As such they query as to whether the proposal would lead to further damage to the already poor roads as a result of an increase of HGV/plant traffic associated with this application and therefore would the roads be reinstated to an acceptable state of repair after the works are completed. Furthermore, they have also queried as to whether proposed borehole impact the annual flow of the streams in the area.

In this regard, the proposal would not lead to any material increase in the traffic to the site over and above what would be generated by planning permission Ref 15/00634/PM, and no objection has been raised by SEPA with regards to impact on annual flow of streams to the area.

Planning permission has already been granted for the proposed infrastructure works, and there can therefore be no objection to those proposed works.

The determination of this application rests on the planning considerations of whether or not the purpose and integrity of conditions 4-12 and 14-15 would be maintained by the proposed variations of them and whether or not the addition of condition 16 is acceptable.

The proposed variation would not change the scope of information to be provided in respect of conditions 4-12 and 14-15.

The proposed variation of conditions 4-12 and 14-15 would allow for the definition of an initial phase of "enabling works", which could proceed prior to the full details of the development being agreed through the parallel discharge of conditions process.

These Enabling works would consist of:

I. Relocation of Crystal Rig II access track, as illustrated within drawing reference J00468-C-027(Rev B) entitled "Enabling Works (i) Relocation of Crystal Rig II Access Track Site Plan, Section and Road Profile";

II. Relocation of Crystal Rig II cable, as illustrated within drawing reference J00468-C-028(Rev B) entitled "Enabling Works (ii) Relocation of Crystal Rig II Cable Site Plan and Section";

III. Horizontal Directional Drill under Crystal Rig II cable, as illustrated within either drawing reference J00468-C-029(Rev B); "Enabling Works (iii) HDD Under Crystal Rig II Cable Site Plan, HDD Section and Profiles Option A" or J00468-C-030(Rev B); "Enabling Works (iii) HDD Under Crystal Rig II Cable Site Plan, HDD Section and Profiles Option B"; and

IV. Cable protection measures for Crystal Rig II cable, as illustrated within drawing reference J00468-C-031(Rev B); "Enabling Works (iv) Crystal Rig II Cable Protection Works Site Plan and Typical Cable Protection Details".

The additional proposed condition (Condition 16) would require that a construction method statement for the borehole to be located within the substation site (Area S) be submitted to and approved by the Planning Authority.

The application also seeks to redefine Areas B and S as referenced throughout the planning permission, reverting back to the original delineation of Area S.

In all of this, the proposed variation of conditions 4-12 and 14-15 would maintain the purpose and integrity of those conditions.

The Council's Environmental Protection Manager, the Council's Archaeology/ Heritage Officer, Network Rail, Scottish Natural Heritage and the Scottish Environment Protection Agency all raise no objection to the proposed variation of conditions 4-12 and 14-15 and the addition of condition 16.

Transport Scotland originally requested an additional condition to be added requiring that prior to commencement of any works within the trunk road boundary a detailed method statement for the cables crossing under the A1 trunk road should be submitted to and approved by the Planning Authority following consultation with Transport Scotland. Transport Scotland have however since accepted that the amended conditions as they are proposed in this application includes a requirement for a detailed method statement for the cables crossing under the A 1 trunk road to be submitted to and approved by the Planning Authority following consultation with Transport Scotland. As such they no longer recommend the imposition of an additional condition and they raise no objection to the proposals.

Scottish Borders Council have confirmed that they have no observations to make in response to this Section 42 application.

Comments have also been received from the Council's Landscape Policy Officer who has requested that the suggested landscape condition be amended to include a requirement to submit details of existing and proposed ground levels as well as details of thinning and long term landscape maintenance. However, such a requirement would be unreasonable, as it was not a requirement of previous planning permissions 12/00922/PM and 15/00634/PM, and this current proposal does not seek to amend the operational development previously approved.

Given the proximity of part of the site from Torness Nuclear Power Plant, the Office for Nuclear Regulation (ONR) has been consulted on the proposal. They have confirmed that they have consulted with the emergency planners within East Lothian Council, which is responsible for the preparation of the Torness off-site emergency plan required by the Radiation Emergency Preparedness and Public Information Regulations (REPPiR) 2001. They have provided adequate assurance that the proposed development can be accommodated within their off-site emergency planning arrangements. Therefore the ONR has confirmed that the proposed development does not present a significant external hazard to the safety of the nuclear site.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in September 2015. Annex I of the Circular gives guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". Therefore, planning permission should be granted subject to the applied for variation to conditions 4-12 and 14-15 and the addition of condition 16 and subject to all of those conditions from planning permission 15/00634/PM, where it is intended these should apply. In this case, the conditions that should continue to apply are 1, 3 and 13.

## RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 The development hereby approved shall be undertaken in accordance with the Environmental Statement docketed to this planning permission, except where altered by the conditions below, or unless otherwise agreed with the Planning Authority in writing.

Reason:

To ensure that the reported likely environmental impacts of the development are not exceeded and the mitigation measures are put in place.

- 3 Prior to the commencement of the development hereby approved, an appropriately experienced and qualified Ecological Clerk of Works (ECoW) shall be appointed following consultation with the Planning Authority and SNH. An ECoW appointed in accordance with this condition shall be in post during appropriate stages of the construction phase of the development, as agreed in writing with the Planning Authority. The ECoW's scope of work shall include monitoring compliance with the mitigation measures within the Environmental Statement and the conditions of this planning permission.

Reason:

To minimise environmental impacts during the construction phase of the development.

- 4 (I) With the exception of the Enabling Works (as defined within paragraph (II)), there shall be no commencement of the development hereby approved within Area A, Area B or Area S, until a Construction Environmental Management Plan (CEMP) in respect of that area is submitted to and approved in writing by the Planning Authority, after consultation with SEPA and, in respect of issues relating to the inter-tidal area, Marine Scotland.

(II) The Enabling Works comprise:

- i. Relocation of Crystal Rig II access track, as illustrated within drawing reference J00468-C-027(Rev B); "Enabling Works (i) Relocation of Crystal Rig II Access Track Site Plan, Section and Road Profile";
- ii. Relocation of Crystal Rig II cable, as illustrated within drawing reference J00468-C-028(Rev B); "Enabling Works (ii) Relocation of Crystal Rig II Cable Site Plan and Section";
- iii. Horizontal Directional Drill under Crystal Rig II cable, as illustrated within either drawing reference J00468-C-029(Rev B); "Enabling Works (iii) HDD Under Crystal Rig II Cable Site Plan, HDD Section and Profiles Option A" or J00468-C-030(Rev B); "Enabling Works (iii) HDD Under Crystal Rig II Cable Site Plan, HDD Section and Profiles Option B"; and
- iv. Cable protection measures for Crystal Rig II cable, as illustrated within drawing reference J00468-C-031(Rev B); "Enabling Works (iv) Crystal Rig II Cable Protection Works Site Plan and Typical Cable Protection Details".

(III) Areas A, B and S are as illustrated on drawing reference GIS 1744/011/024; "Onshore Infrastructure - Planning Conditions Illustration of Areas A, B and S", unless otherwise agreed in writing with the Planning Authority.

(IV) The CEMP shall, unless otherwise agreed with the Planning Authority in writing, include the following details:

- (a) Construction Method Statements, which shall include details of the crossing methods to be utilised along the cable route including, if appropriate, the placing in ducts of any cables laid under public roads. The Construction Method Statements shall also recommend mitigation measures to control noise and shall include hours of operation for construction work;
- (b) Pollution prevention monitoring and mitigation measures for all construction activities;
- (c) Reinstatement following the completion of the construction of the cable route, including the reinstatement of agricultural land, drainage systems and landscape resources;
- (d) Dust and air quality management plan;
- (e) Soil resource management plan, including a map showing locations of stockpiles of excavated materials, details of use and/or disposal of unsuitable subsoil, details of the management and mitigation of soil resources in accordance with best practice;
- (f) Construction noise and vibration management plan, including identification of access routes, locations of laydown areas, equipment details, details of operation, scheduling of works, mitigation measures and a scheme for noise monitoring in the event of complaints;

(g) Habitat resource management plan for the cable route and substation, including details of tree/hedgerow removals and replacements, and the use of protective fencing and ground protection (in accordance with BS5837\_2012 "Trees in relation to design, demolition and construction- Recommendations"), tree root protection methods, and other appropriate mitigation measures;

(h) Peat Management Plan; and

(i) The installation approach (i.e. horizontal directional drilling or open cut trenching) for the cable landfall area at Thorntonloch beach.

(V) Thereafter, prior to the commencement of the development hereby approved within remaining Areas, Addendums to the CEMP which provides details specific to such Areas which have not previously been submitted in (I), shall be submitted to and approved in writing by the Planning Authority, after consultation with SEP A, SNH and, in respect of issues relating to the inter-tidal area, Marine Scotland. The CEMP shall, unless otherwise approved by the Planning Authority in writing, include the details listed at Condition 4 (IV) as they relate specifically to such Areas; and

(VI) The development shall thereafter be carried out in accordance with the approved CEMP (including Addendums) unless otherwise agreed with the Planning Authority in writing. For the avoidance of doubt, no development shall take place within Areas A, B or S, without details (a)-(i) as they relate to such specific area(s) having first been approved in accordance with the procedures described at (I) and (V).

Reason: To minimise environmental impacts during the construction phase of the development.

- 5 With the exception of the Enabling Works (as defined within Condition 4(II)) and the Initial Duct Works, undertaken in August 2016 in Area A (Area A as illustrated on drawing reference GIS 1744/011/024; "Onshore Infrastructure - Planning Conditions Illustration of Areas A, B and S"), there shall be no commencement of the development hereby approved until an Access Management Plan (AMP) is submitted to and approved in writing by the Planning Authority. The Access Management Plan shall detail proposals for maintaining and managing public access across the application site during the period of the development without compromising applicable health and safety requirements.

The development shall thereafter be carried out in accordance with the approved Access Management Plan unless otherwise agreed with the Planning Authority in writing.

Reason: To minimise the impact the development on public access across the application site.

- 6 (I) With the exception of the Enabling Works (as defined within Condition 4(II)) and the Initial Duct Works, undertaken in August 2016 in Area A, there shall be no commencement of the development hereby approved within Area A, Area B or Area S, until a Traffic Management Plan (TMP) for the construction phase of the development in respect of that area is submitted to and approved in writing by the Planning Authority, after consultation with Transport Scotland.

(II) Areas A, B and S are as illustrated on drawing reference GIS 1744/011/024; "Onshore Infrastructure - Planning Conditions Illustration of Areas A, B and S", unless otherwise agreed in writing with the Planning Authority.

(III) The TMP shall, unless otherwise agreed with the Planning Authority in writing, include the following details:

- a) details of identified routes to and from the construction site;
- b) details of construction compounds and details of construction access points;
- c) specific arrangements relating to the transportation of abnormal loads and procedures to ensure pedestrian safety adjacent to working areas;
- d) arrangements for minimising disruption to road users and pedestrians in those locations where open cut trenching crosses a public or private road;
- e) details of any off-site mitigation works;
- f) co-ordination of traffic movements with other major transport users;
- g) arrangements for the cleaning of wheels and chassis of construction traffic to prevent material being carried onto the public road;
- h) details of temporary construction car parks associated with the construction compounds;
- i) details of trees to be protected from construction traffic in accordance with BS5837:2012;
- j) a condition dilapidation survey, the scope of which will be agreed in advance with East Lothian Council; and
- k) A Green Travel Plan to include measures to minimise dependency on the private car to and from the construction compounds.

The TMP shall also include vehicle tracking and swept path analysis for vehicles entering and exiting the site and details of the provision of visibility splays at all vehicular accesses. It shall also include details of any road closures and suitable alternative routes during the road closures.

(IV) Thereafter, prior to the commencement of the development hereby approved within remaining Areas, Addendums to the TMP which provides details specific to such Areas which have not previously been submitted in (I), shall be submitted to and approved in writing by the Planning Authority, after consultation with Transport Scotland. The TMP shall, unless otherwise approved by the Planning Authority in writing, include the details listed at Condition 6 (I) as they relate specifically to such Areas.

(V) The development shall thereafter be carried out in accordance with the approved TMP unless otherwise agreed with the Planning Authority in writing.

Reason: In the interests of road safety.

- 7 (I) With the exception of the Enabling Works (as defined within Condition 4(II)) there shall be no commencement of the development hereby approved within Area A, Area B or Area S, until a Site Waste Management Plan (SWMP) is submitted to and approved in writing by the Planning Authority, after consultation with SEPA. The SWMP shall, unless otherwise agreed with the Planning Authority in writing, include the following details:

- (a) Details of the waste management measures to be implemented during the construction phase, including the steps to be taken to maximise the quantity of waste to be re-used and recycled;
- (b) The types and quantities of waste expected to arise during the construction phase of the Development;
- (c) The identification of the contractors to be used to ensure the waste is correctly recycled or disposed of responsibly and legally;
- (d) Information on how the quantity of waste will be measured; and
- (e) Identification of responsible personnel.

(II) Areas A, B and S are as illustrated on drawing reference GIS 1744/011/024; "Onshore Infrastructure - Planning Conditions Illustration of Areas A, B and S", unless otherwise agreed in writing with the Planning Authority.

(III) Thereafter, prior to the commencement of the development hereby approved within remaining Areas, an Addendum to the SWMP which provides details specific to such Areas which have not previously been submitted in (i), shall be submitted to and approved in writing by the Planning Authority, after consultation with SEPA. The Addendum shall provide the details referenced in (i) as they relate to such Areas; and

(IV) The development shall be carried out in accordance with the approved SWMP (including Addendum) unless otherwise agreed with the Planning Authority in writing. For the avoidance of doubt, no development shall take place within Areas A, B and/or S, without details (a)-( e) as they relate to such specific area(s) having first been approved in accordance with the procedures described at (i).

Reason: In order to minimise waste during construction and to ensure that it is properly managed.

- 8 (I) With the exception of the Enabling Works (as defined within Condition 4(II)), there shall be no commencement of the development hereby approved within Area S, until the following details, including proposed timescales, are submitted to and approved in writing by the Planning Authority:

- (a) The siting, design, external appearance and dimensions of the substation and any another permanent above-ground features, and a schedule of materials and finishes; and
- (b) The proposed levels of any earthworks and the design of permanent fencing and boundary walls.

The development of Area S shall thereafter be carried out in accordance with the approved details unless otherwise agreed with the Planning Authority in writing.

(II) Area S is illustrated on drawing reference GIS 1744/011/024; "Onshore Infrastructure - Planning Conditions Illustration of Areas A, B and S", unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of the landscape character and appearance of the Lammermuir Hills Area of Great Landscape Value.

- 9 (I) With the exception of the Enabling Works (as defined within Condition 4(II)), there shall be no commencement of development within Area A, Area B or Area S, until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping as it relates to such Areas. The scheme 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.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five 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.

(II) Areas A, B and S are as illustrated on drawing reference GIS 1744/011/024; "Onshore Infrastructure - Planning Conditions Illustration of Areas A, B and S", unless otherwise agreed in writing with the Planning Authority.

(III) Thereafter, prior to the commencement of the development hereby approved within remaining Areas, an Addendum to the scheme of landscaping which provides details specific to such Areas which have not previously been submitted in (i), shall be submitted to and approved in writing by the Planning Authority. The Addendum shall provide the details referenced in (I) as they relate to such Areas.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five 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; and

(iii) For the avoidance of doubt, no development shall take place within Areas A, B or S, without a scheme of landscaping in respect of such area(s) having first been approved in accordance with the procedures described at (i).

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.

- 10 (I) With the exception of the Enabling Works (as defined within Condition 4(II)) there shall be no commencement of the development hereby approved within Area S, until a substation drainage strategy is submitted to and approved in writing by the Planning Authority, after consultation with SEPA. Thereafter, the development shall be carried out in accordance with the approved drainage strategy unless otherwise agreed with the Planning Authority in writing.

(II) Area S is illustrated on drawing reference GIS 1744/011/024; "Onshore Infrastructure - Planning Conditions Illustration of Areas A, B and S", unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure that a suitable drainage strategy is implemented.

- 11 (I) With the exception of the Enabling Works (as defined within Condition 4(II)) and the Initial Duct Works, undertaken in August 2016 in Area A, there shall be no commencement of the development hereby approved within Area A, Area B or Area S, until a survey of European Protected Species (EPS) is carried out within Area A, Area B and Area S. Based on the findings of these surveys, if required, a Protected Species Management Plan shall be submitted to and approved in writing by the Planning Authority after consultation with SNH. The Protected Species Management Plan shall include mitigation measures designed to safeguard any EPS within such Areas. During the construction phase of the development regular monitoring of the mitigation measures (where required) in the Protected Species Management Plan shall be carried out by the Company, or its representative.

(II) Areas A, B and S are as illustrated on drawing reference GIS 1744/011/024; "Onshore Infrastructure - Planning Conditions Illustration of Areas A, B and S", unless otherwise agreed in writing with the Planning Authority.

(III) Thereafter, prior to the commencement of the development hereby approved within remaining Areas, a survey of EPS will be carried out within that Area. Based on the findings of these surveys, if required, a Protected Species Management Plan which provides details specific to Area B which have not previously been submitted in (i), shall be submitted to and approved in writing by the Planning Authority after consultation with SNH. The Protected Species Management Plan shall include mitigation measures designed to safeguard any EPS within such Areas. During the construction phase of the development regular monitoring of the mitigation measures (where required) in the Protected Species Management Plan shall be carried out by the Company, or its representative; and

(IV) The development shall thereafter be carried out in accordance with the approved Protected Species Management Plan (s) unless otherwise agreed with the Planning Authority in writing. For the avoidance of doubt, no development shall take place within Areas A, B or S, without such surveys being undertaken and (where required) such mitigation being in place within such area(s).

Reason: To minimise disturbance to protected species during the construction phase of the development.

12 (I) With the exception of the Enabling Works (as defined within Condition 4(II)) and the Initial Duct Works, undertaken in August 2016 in Area A, there shall be no commencement of the development hereby approved within Area A, Area B or Area S, until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work within such areas, in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

(II) Areas A, B and S are as illustrated on drawing reference GIS 1744/011/024; "Onshore Infrastructure - Planning Conditions Illustration of Areas A, B and S", unless otherwise agreed in writing with the Planning Authority.

(III) Thereafter, no development shall take place within remaining Areas until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work within such remaining Areas, in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority; and

(IV) For the avoidance of doubt, no development shall take place within Areas A, B or S, without the implementation of an approved programme of archaeological work within such area(s).

Reason: To facilitate an acceptable archaeological investigation of the site.

13 Within 24 months of the permanent cessation of generation at the offshore wind farm, the Company shall confirm in writing to the Planning Authority whether or not the development hereby approved continues to be required for electricity transmission purposes.

Where the development is not required for electricity transmission purposes beyond the operational period of the offshore wind farm, within 24 months of the permanent cessation of generation at the offshore wind farm, a decommissioning and site restoration plan (the 'Demolition and Restoration Scheme') shall be submitted to and approved in writing by the Planning Authority. The Demolition and Restoration Scheme shall have due regard to the Decommissioning Programme prepared in respect of the offshore wind farm and shall include details of:

- (i) The extent of substation and cable infrastructure to be removed and details of site restoration;
- (ii) Management and timing of works;
- (iii) Environmental management provisions; and
- (iv) A traffic management plan to address any traffic impact issues during the decommissioning period.

The Demolition and Restoration Scheme shall be implemented in its entirety, unless otherwise agreed with the Planning Authority in writing.

Where the Development is required for electricity transmission purposes beyond the operational period of the offshore wind farm, within 24 months of the development no longer being required for electricity transmission purposes, a decommissioning and site restoration plan (the 'Demolition and

Restoration Scheme') shall be prepared by the Company and shall be submitted to and approved in writing by the Planning Authority. The Demolition and Restoration Scheme shall include details of:

- (i) The extent of substation and cable infrastructure to be removed and details of site restoration;
- (ii) Management and timing of works;
- (iii) Environmental management provisions; and
- (iv) A traffic management plan to address any traffic impact issues during the decommissioning period.

The Demolition and Restoration Scheme shall be implemented in its entirety, unless otherwise agreed with the Planning Authority in writing.

Reason: To ensure that the application site is satisfactorily restored in the interests of the amenity of the area.

- 14 With the exception of the Enabling Works (as defined within Condition 4(II)) and the Initial Duct Works, undertaken in August 2016 in Area A (Area A as illustrated on drawing reference GIS 1744/011/024; "Onshore Infrastructure - Planning Conditions Illustration of Areas A, B and S"), there shall be no commencement of the development hereby approved, until proposals for the realignment of existing access tracks are submitted to and approved in writing by the Planning Authority. The development shall thereafter be carried out in accordance with approved details unless otherwise agreed with the Planning Authority in writing.

Reason: To minimise the impact the development on public access within and across the application site.

- 15 (I) Prior to commencement of the development hereby approved within Area B, a detailed method statement for the cables crossing under the A 1 trunk road shall be submitted to and approved by the Planning Authority following consultation with Transport Scotland.

The development shall thereafter proceed in accordance with the details so approved.

(II) Area B is illustrated on drawing reference GIS 1744/011/024; "Onshore Infrastructure - Planning Conditions Illustration of Areas A, B and S", unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of road safety.

- 16 (I) Prior to the commencement of the borehole within Area S comprised within the Enabling Works and described in Condition 4(II) (the location of which is illustrated on drawing reference J00468-C-032(Rev B); "Enabling Works (v) Borehole Location", a detailed method statement for the construction of the borehole shall be submitted to and approved by the Planning Authority following consultation with SEPA.

The development shall thereafter proceed in accordance with the details so approved.

(II) Area S is illustrated on drawing reference GIS 1744/011/024; "Onshore Infrastructure - Planning Conditions Illustration of Areas A, B and S", unless otherwise agreed in writing with the Planning Authority.

Reason: In order to agree the specifics of this element of the development.



*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)*