

**PLANNING COMMITTEE**

**18 DECEMBER 2019**

**PUBLIC DOCUMENT PACK**





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

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

**1**

**Committee Members Present:**

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

**Other Councillors Present:**

Councillor J Goodfellow  
Councillor C Hoy

**Council Officials Present:**

Mr K Dingwall, Service Manager – Planning  
Mr K Graham, Solicitor  
Ms M Haddow, Transportation Planning Officer  
Ms S McQueen, Planner  
Ms J McLair, Planner  
Mr C Kiely, Planner  
Mr D Taylor, Planner  
Ms L Hunter, Transportation Planner  
Mr E Lamont, Roads Officer  
Ms J Allen, Communications Adviser

**Clerk:**

Ms F Currie

**Visitors Present/Addressing the Committee:**

Item 2 – Mr N Sutherland, Mr P Dibsedale, Ms W Chan, Mr D Warren, Mr J Swift  
Item 3 – Mr P Allan, Mr K Macdonald, Mrs E Mostyn, Ms K Campbell  
Item 4 – Ms J Waddell, Mr A Swan  
Item 5 – Mr L Cairney, Mr I Hamilton, Mrs P Swan

**Apologies:**

Councillor W Innes

**Declarations of Interest:**

Item 4 – Councillor Mackie declared an interest and indicated her intention to leave the Chamber during this item.

**1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 1 OCTOBER 2019**

The minutes of the meeting of the Planning Committee of 1 October 2019 were approved.

**2. PLANNING APPLICATION NO. 19/00781/P: ERECTION OF 1 HOUSE AND ASSOCIATED WORKS AT LAND EAST OF WHITEKIRK VILLAGE HALL, WHITEKIRK**

A report was submitted in relation to Planning Application No. 19/00781/P. Julie McLair, Planner, presented the report, summarising the key points. She added that at the request of Councillor Goodfellow, Members had been provided with a map of the local area. This showed that the application site was located adjacent to, not within or sharing a boundary with, a special landscape area. The proposed decision set out in the report was to grant consent.

Ms McLair responded to a number of questions from Members regarding the objections received, the elevation of surrounding properties, the location of the site in relation to the special landscape area, the potential impact on the Tithe Barn and the village hall, provision for parking and protection of the trees surrounding the site. Ms McLair also confirmed that Historic Environment Scotland had responded as a consultee but had made no comment on the application; either for or against. She also confirmed that discussions had taken place with the agent on safeguarding of some of the landscape features on the site.

Neil Sutherland of Wardell Armstrong, agent for the applicant, outlined the proposals and confirmed that the rock outcrop would remain with only slight shaving required and the ridge would remain in its entirety. He said that the previous proposals for a 2 storey house had been reduced to 1.5 storeys and that the trees and backdrop would further mitigate the impact of the development. The house itself had been designed specifically for the site, working with the surrounding landform and would be constructed of quality materials. He pointed out that the detailed heritage assessment report concluded there would be no adverse impact on the Tithe Barn. Referring to concerns about damage to trees, he said the applicant did not own the land where the trees were located but he would be happy to accept a condition safeguarding the trees during construction work. He also confirmed that conditions in relation to the elevation of the building and landscape/garden ground would be acceptable to his client.

Mr Sutherland responded to questions from Members. He stated that he had only just become aware of the issues surrounding the septic tank which served the village hall. However it was his understanding that these were legal rather than planning matters. On the proximity to the village hall, he maintained that his client was not concerned about noise or other encroachment. He also suggested that mitigating features could be included as part of the design and build process. He clarified the reasons for submitting a revised design for the house which included a lowered elevation. In relation to the rock outcrop on the site, he explained that a small cut of less than 1 metre would be required to help the house bed down into its setting. There would be no danger to the remaining outcrop and the work would not cause any stability issues.

Philip Dibsedale spoke against the application. He disagreed with the planning officer's assessment and with his interpretation of planning policies. He suggested that rather than 1.5 storeys, as stated in the plans, the proposed building would in fact constitute a 2 storey

dwelling house. The area of the village where the site was located included 18<sup>th</sup> century stone built cottages, the church and the Tithe Barn; it had been undisturbed by any new development since the village hall was erected in the 1920s. He said the proposed house would be crammed onto a small site and would be completely inappropriate in that setting. He disagreed with the planning officer's assessment of policy DP7 arguing that the proposal could only comply if the whole development, including car parking, turning space, etc., could be accommodated on the site; this was not the case. He also noted that the plans for the garden ground were unsatisfactory due to the rock escarpment and that the development as a whole was inappropriate in height, scale and mass and would be harmful to the area.

Mr Dibsedale responded to questions from Members regarding the positioning of the windows, the distance from the site to the Tithe Barn and its visibility, the lack of objections from Historic Environment Scotland and the interpretation of policy DP7 as it related to turning space and access.

Mr Dingwall commented that there was nothing in policy DP7 that prevented access and turning space being served off a private track; in this case the track to the Tithe Barn. The Convener noted that access was a legal issue rather than a planning consideration.

Wendy Chan spoke against the application. She advised Members that Whitekirk was part of a conservation area and that the site was situated close to important landscape features such as the Whitekirk and Balgownie outcrops and the historic Tithe Barn. Referring to planning policies DC1 and DC9 she stated that development should only be permitted where it did not harm the character of an area and where it was well integrated into its surroundings. In her view the proposals did not comply with either of these requirements and the development would result in damage to landscape features and severe overlooking of neighbouring properties.

At this point Ms Chan attempted to circulate a photograph which had not formed part of her original representation. She was advised that no new materials could be circulated during the meeting.

Ms Chan concluded her presentation by outlining the severity of overlooking that would result from the proposed development and the loss of amenity and privacy to her property. She also pointed out that children regularly used the old quarry site as a safe place to play and that this opportunity for outdoor play would be lost should the site be developed.

David Warren, chair of the Whitekirk Community Company, spoke against the application. He said his main objection was the detrimental impact on the village hall – the hub of the community – and the historic Tithe Barn. He stated that the village hall hosted a range of events throughout the year and there was concern that this use could be curtailed by a house being built in such close proximity and there was also concern over the location of the hall's septic tank. Referring to planning policies CH1 and CH2 he said that the house would be clearly visible to those walking to or from the Tithe Barn and would alter the landscape architectural character of the historic site. He dismissed the applicant's assessments as being of little value and he urged the Committee to refuse the application.

Mr Warren responded to questions from Members regarding the number and frequency of events held in the village hall and provided additional background on the Whitekirk Community Company.

Jon Swift, of Dunpender Community Council, spoke against the application. He said that the Community Council agreed with the objections raised by local individuals and groups and that the proposals would have a detrimental effect on the village. He noted the strength of local objections and that there did not appear to be a similar level of support for the proposals. He concluded that the Community Council was mindful of the need to represent

local concerns and he urged the Committee to take account of these when making their decision.

Local Member Councillor Findlay said that the objections received on this application appeared to represent almost 70% of the village's population and he had never before come across such a high level of objections from one community. Referring to the proposals, he said the house would be an overdevelopment of a site which was close to a special landscape area and a historic listed building and would not be in keeping with the surrounding dwellings. He had concerns about the septic tank and the impact on the village hall and he did not believe that the proposals met the requirements of the relevant planning policies. He would not be supporting the officer's recommendations.

Local Member Councillor Goodfellow, not a member of the Planning Committee, commented that the site was adjacent to a special landscape area, the proposals would have an adverse effect on a historic listed building and that they would be incongruous within the wider Whitekirk conservation area. He urged the Committee to overturn the officer's recommendation.

Councillor Kempson considered that the problem of noise from the village hall had been dismissed too lightly and should have been given more serious consideration. She would not be supporting the officer's recommendations.

Councillor McMillan thanked the planning officer for a thorough and balanced report. He had listened closely to the views expressed during the meeting and was not convinced that building one house would destroy such a vibrant community. However, he noted that the representations received amounted to 70% of the village inhabitants and with the evidence presented of the potential impact on village life he was minded not to grant planning permission.

Councillor McGinn said that with regret he would not be supporting the officer's recommendation. He agreed with Ms Chan's comment that children needed a place to play and he was also concerned about the site's proximity to the village hall. He said it would be foolish to assume that living so close would not result in concerns about noise, and it was important to preserve the community's use of the hall.

Councillor Bruce agreed with his colleagues and said that, in his view, the application did not comply with planning policies DP7 and CH2. He referred to the loss of amenity for recreation and greenfield land and that the proposals did not preserve or enhance the appearance of the conservation area. He would not be supporting the officer's recommendation.

The Convener brought the discussion to a close. He considered that the development would be detrimental to the character of the village and would result in an unacceptable loss of trees, rock and landscape. He also noted the proximity to the village hall and the potential impact on village life. He was in agreement with the majority of Members; he would not be supporting this application. In light of the comments made during the debate, the Convener asked Mr Dingwall to outline suggested grounds should the Committee vote to refuse the application. Mr Dingwall outlined suggested reasons for refusal based on Members' comments.

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

For: 1  
Against: 9  
Abstentions: 1

## Decision

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

1. *The proposed house would detrimentally harm the character and appearance of the Whitekirk Conservation Area, contrary to Policy CH2 of the adopted East Lothian Local Development Plan 2018 and Scottish Planning Policy: June 2014;*
2. *The proposed house would adversely affect the special character of the Whitekirk and Balgone Outcrops Special Landscape Area, contrary to Policy DC9 of the adopted East Lothian Local Development Plan 2018;*
3. *The proposed house would adversely affect the setting of the listed building of Tithe Barn, contrary to Policy CH1 of the adopted East Lothian Local Development Plan 2018 and to Scottish Planning Policy: June 2014 and Scottish Historic Environment Policy with respect to the affect of it on the setting of a listed building;*
4. *The proposed house could prejudice the ongoing use of the Whitekirk Village Hall, as noise emanating from it may impact on the amenity of the occupants of the new house; and*
5. *The proposal would result in the material loss of greenfield land or open space important to the character or recreation and amenity requirements of the area, contrary to Policy DP7 of the adopted East Lothian Local Development Plan 2018.*

Councillor Goodfellow asked that, in the event of an appeal by the applicant, that his statement regarding the shaving of the rock face be included in the summary of discussions. The Convener confirmed that this would be included in the minutes.

Councillor McLeod observed that it was not always possible to identify whether the representations received were from local people. He asked if in future all representations could include address details. The Convener agreed to ask officers to consider this.

### **3A. PLANNING APPLICATION NO. 19/00543/P: ERECTION OF 1 HOUSE, GARAGE/WORKSHOP AND ASSOCIATED WORKS AT GOOD FORTUNE, ATHELSTANEFORD**

A report was submitted in relation to Planning Application No. 19/00543/P and Planning Application No. 19/00545/CAC (Item 3b on the agenda). Ciaran Kiely, Planner, presented both reports, summarising the key points. The proposed decisions set out in the reports were for refusal of the planning application and refusal of the conservation area consent.

Responding to questions Mr Kiely advised that as the building was in a conservation area consent was required for demolition and that in assessing the existing structure they would expect to see walls intact to at least head height and that the building was habitable. He also confirmed that planning officers had previously approved proposals for alterations and extension of the existing house.

Mr Dingwall referred to the structural engineering report which concluded that the existing building was suitable for alteration/extension. He said there was no clear justification for demolition and that building methods had changed so much that it would impossible to replicate the existing building form.

Peter Allan, the applicant, and Keith Macdonald of Somner Macdonald, agent for the applicant, gave brief presentations to the Committee. Mr Allan said that when he bought the property it was in a poor state of repair. He had engaged with the planning department throughout the process and had come up with sympathetic proposals which had been approved last year. However, the contractors had subsequently indicated that the original walls were not suitable for development and recommended they be taken down. He said he was committed to a high quality, environmentally sensitive rebuild to the existing footprint

and appearance. He also pointed out that the building could not be seen from the main street.

Mr Macdonald referred members to images of the existing structure and pointed out those elements which had previously been replaced. He said the intention was to take down the walls and rebuild with the original materials. Currently, there was a risk to the integrity of the building as well as associated health and safety risks. In his view the proposals complied with planning policy and he urged the Committee to grant planning permission.

Mr Allan and Mr Macdonald responded to questions from members on the percentage of material to be recycled, the type of windows to be fitted, the methods used to replicate the existing look of the building and whether it would be possible to retain any of the existing walls.

Mr Dingwall added that it was not simply about reusing materials but retaining features which could not easily be replicated with modern methods. He reiterated his officer's view that it was perfectly possible to retain the existing structure as part of the build.

Elaine Mostyn spoke in favour of the application. As a resident of the village she supported the proposals and commended the applicant's commitment to preserving as much of the building as possible, while undertaking an environmentally friendly development of the site. She did not consider that the proposals would harm the character of the building or the wider village; she felt that they would provide a sound structure and safeguard the building for the future. She expressed surprise that the application had not found favour with planning officials.

Krystyna Campbell, on behalf of the Architectural History Society of Scotland, spoke against the application. She said the main concern with the application was the use of the original fabric; by getting rid of the walls the new building would not retain the original form of the cottage. She said it was difficult to replicate traditional building methods and she noted that the engineering report had assessed the cottage as in generally good condition and suitable for development or extension. She added that giving approval to demolish and build would set a precedent for the village and elsewhere.

Ms Campbell responded to questions from members confirming that the application had been discussed by the Society's local members and clarifying comments the Society made in relation to the previous application.

Local Member Councillor Hoy, not a member of the Planning Committee, said he had nothing to add to his original statement of reasons for calling in this application.

Local Member Councillor McMillan noted that while Good Fortune was not visible from the main street, it was an important building within a marvellous village setting. He did not wish to see the property altered beyond recognition and to lose the outside of the building would be unfortunate. For those reasons he would be supporting the officer's recommendations.

Councillor Gilbert said that in his view the importance of retaining what already existed outweighed the need for demolition so he would be supporting the officer's recommendation.

Councillor Bruce thanked the applicant for his presentation and his commitment to the project. Referring to planning policy CH3, he said this only applied where a building could not be adapted or extended which was not the case with Good Fortune. Reluctantly, he would be supporting the officer's recommendation.

Councillor O'Donnell commented on the need to be consistent when making decisions which may affect conservation areas. She said that the right thing to do was to preserve a



significant piece of history within the village. She would be supporting the officer's recommendation.

Councillor McLeod said he had listened to colleagues and was persuaded by the comments made. While he noted that the house was not directly visible from the road it was in need of repair. He would be supporting the officer's recommendation.

Councillor Gilbert referred to the letters of representation submitted regarding these applications and that of 15 received only 2 could be identified as local. The Convener agreed to ask officers to look into this.

The Convener brought the discussion to a close. He said it was clear from the site visit that the building was in poor condition and that the previous renovation had not provided a very good standard of accommodation. But while he had sympathy for the applicant, he noted from the discussion that there were things which could be done to retain the existing walls. He would therefore be supporting the recommendation as set out in the report.

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

For: 11  
Against: 0  
Abstentions: 0

#### **Decision**

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

- 1 The replacement of the existing house with the new house would detrimentally harm the character and appearance of the Athelstaneford Conservation Area, contrary to policies RCA1, DP7, CH2 and CH3 of the East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014.

#### **3B. PLANNING APPLICATION NO. 19/00545/CAC: DEMOLITION OF BUILDING, WALL AND GATE AT GOOD FORTUNE, ATHELSTANEFORD**

A report was submitted in relation to Planning Application No. 19/00545/CAC. The proposed decision set out in the report was for refusal of the conservation area consent for the demolition of the existing house, garage, wall and gate.

For: 11  
Against: 0  
Abstentions: 0

#### **Decision**

The Committee agreed to refuse the conservation area consent for the following reason:

- 1 The demolition of the existing house would in itself neither preserve nor enhance the character and appearance of the Athelstaneford Conservation Area. Accordingly the proposal is contrary to Policy CH3 of the East Lothian Local Development Plan 2018, Scottish Historic Environment Policy and with Scottish Planning Policy: June 2014 with respect to the effect of it on the Conservation Area.

*Sederunt: Councillor Mackie left the Chamber.*

#### **4. PLANNING APPLICATION NO. 19/00596/P: ALTERATIONS, EXTENSIONS TO BUILDING AND CHANGE OF USE OF GROUND FLOOR PUBLIC HOUSE TO HOSTEL (CLASS 7), WITH ASSOCIATED LOUNGE, RECEPTION/CAFÉ,**

**MANAGER'S SELF-CONTAINED FLAT, INSTALLATION OF EXTERNAL SPIRAL ESCAPE STAIR AND ASSOCIATED WORKS AT THE DOLPHIN HOTEL, 2 QUEENS ROAD, DUNBAR**

A report was submitted in relation to Planning Application No. 19/00596/P. Stephanie McQueen, Planner, presented the report, summarising the key points including the concerns surrounding the installation of solar panels. She explained the reasons for refusing the installation of solar panels adding that any environmental benefits which may be accrued would not, in her view, outweigh the material considerations and would set an unhelpful precedent. The proposed decision set out in the report was to grant consent.

Ms McQueen responded to questions regarding other buildings in the area, alternative renewable energy options and the weighing of material considerations against planning policy.

The applicant, Jo Waddell, provided a detailed summary of the proposals outlining the background to the development, the footprint for the site, the facilities to be provided and the measures which would be put in place to make the development as environmentally sensitive and as sustainable as possible. She said she had taken advice from planning officers about the exterior of the building and how to make it sit positively within its surroundings. She felt that the roof was high enough that the solar panels would not automatically draw the eye or detract from the rest of the building. She added that there were not many alternatives available at the moment and that some options were ruled out due to the size and nature of the building.

Alasdair Swan, of Dunbar Community Council, spoke in support of the application. He expressed his extreme gratitude to Ms Waddell for investing in the Dolphin Hotel but he also acknowledged the dilemma relating to solar panels outlined in the planning officer's report: how to balance the preservation of the conservation area against dealing with the pressures of climate change. He said the Community Council was concerned about the number of new houses being built without solar panels or other renewable energy sources and about the message which the Council would be sending if this development were approved without solar panels. He urged the Committee to allow the solar panels.

In response to further questions from Members, Ms McQueen proposed an amended condition no. 1 regarding the installation of solar panels:

"The solar panels hereby approved shall be installed so as to be as flush fitting as possible with the upper surface of the roof into which they would be installed and with minimal flashing, in accordance with 1:10 or 1:20 scale section drawings showing the size, appearance and flush positioning of the solar panels to be submitted to and approved in advance in writing by the Planning Authority prior to their installation. Thereafter the solar panels shall be installed in accordance with the details so approved."

Mr Swan confirmed that the Community Council would be content with this proposed condition and with the precedent that such a development would set.

Councillor McLeod advised the meeting that his daughter worked for Warmworks UK. He did not think that this constituted a conflict of interest but he wished to make the point clear.

The Convener and Local Member Councillor Hampshire said he had called in this application as the proposed development would deliver a fantastic facility for Dunbar. On the issue of solar panels, he reminded Members that the Council had recently declared a climate emergency and it needed to do whatever it could to reduce the county's carbon footprint. He said that the Committee needed to support and encourage the use of renewables in all new developments. He said he would be voting against the officer's recommendation as set out in the report and would instead be supporting approval subject to amended conditions, as outlined by Ms McQueen.

Councillor Williamson said that this project would bring a once loved building back to life. He had no objection to solar panels being installed if they were embedded in the roof and did not think they would adversely affect the visual amenity of the area.

Local Member Councillor Kempson welcomed the application adding that the owners clearly had the energy and enthusiasm to create a brilliant development for Dunbar. She considered that the impact of solar panels would be minimal and she would be voting against the officer's recommendations as set out in the report.

Councillor McMillan pointed to the application as an example of the economic development and tourism strategy in action and developing high quality facilities for Dunbar. He acknowledged the concerns about the impact on visual amenity, however he felt that public attitudes were changing and that the proposals would not look out of place. He said he would support the application with the addition of solar panels.

Councillor McGinn said he had sympathy with officers but he was supportive of this type of accommodation and of the proposals regarding solar panels. He did not think it set a precedent as each planning application was considered on its merits. He welcomed an application that supported the environment, tourism and the local community.

Councillor O'Donnell said that while she understood the reasons for refusal, she felt that coastal erosion and flooding were more important than preserving a roof in the conservation area within Dunbar. She would not be supporting the officer's recommendations.

Councillor Gilbert hoped that this moment would be looked on as a watershed where the Committee considered environmental matters as important as other factors in determining applications. He would be voting against the recommendations as set out in the report.

The Convener brought the discussion to a close. He would be supporting the recommendation to grant planning permission but with an amended condition in relation to solar panels. This motion was seconded by Councillor McMillan

The Convener moved to the vote on the proposal to amend condition 1 of the planning permission, as set out by Ms McQueen. This was unanimously supported by the Members. The Convener then moved to the vote on the report recommendation (to grant consent), as amended:

For: 10  
Against: 0  
Abstentions: 0

### **Decision**

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

- 1 The solar panels hereby approved shall be installed so as to be as flush fitting as possible with the upper surface of the roof into which they would be installed and with minimal flashing, in accordance with 1:10 or 1:20 scale section drawings showing the size, appearance and flush positioning of the solar panels to be submitted to and approved in advance in writing by the Planning Authority prior to their installation. Thereafter the solar panels shall be installed in accordance with the details so approved.

Reason:

In the interests of safeguarding the visual amenity of the area and the character and appearance of the Conservation Area

- 2 A Construction Traffic Method Statement designed to minimise the impact of the movements of construction 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 and shall include hours of construction work and any recommended mitigation measures for the control of construction traffic, which shall, as may be applicable, be implemented prior to the commencement of development and during the period of development works being carried out on the application site.

Reason:

To minimise the impact of construction traffic in the interests of road and pedestrian safety in the locality.

- 3 Prior to the commencement of development on the site, a Green Travel Plan to minimise private car trips and to encourage use of alternative modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority. Additionally, the Travel Plan shall be very clear on how active travel and public transport information will be promoted to employees and visitors of the hostel 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 hostel hereby approved.

- 4 Details, including a sample of the replacement natural slates to be used in the re-cladding of the roof shall be submitted to and approved in advance by the Planning Authority prior to their use in the development hereby approved, and thereafter the natural slates used shall accord with the details and sample so approved.

Those replacement natural slates shall match as closely as possible the existing natural slates on the roof of the building.

The existing natural Scottish slates of the roof of the building shall, where possible, be carefully removed and set aside for re-use / salvage.

Reason:

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

- 5 Details and a sample of the paint colours to be applied to the rendered finish of the external walls of the building, the window cills of the building, the castellated up-stand of the existing single storey part of the building, and to the external walls of the extension hereby approved shall be submitted to and approved in writing by the Planning Authority prior to its use within the development and thereafter the paint colours used shall accord with the samples so approved.

The window cills of the building and the castellated up-stand of the existing single storey part of the building shall be painted a contrasting colour to the colour applied to the render of the walls of the building, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure a satisfactory standard of external finish to the walls of the building in the interests of preserving the character and appearance of the building and the character and appearance of the Conservation Area.

- 6 The frames of the new and replacement windows of the southeast (front) and northeast and southwest (side) elevations of the building shall be of timber construction and shall be painted white unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of safeguarding the character and appearance of the building and the character and appearance of the Conservation Area.

- 7 A schedule and samples of the external finishing materials to be used for the external walls and roof of the alterations to the building and the new extension hereby approved shall be submitted to and approved in advance in writing by the Planning Authority prior to their use in the development hereby approved, and thereafter the materials used shall accord with the details and samples approved.

Reason:

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

- 8 The frames of the new external doors shall be of timber construction and the new external doors shall also be of timber or timber and glazed construction, unless otherwise approved in writing by the Planning Authority and the outer surface of the framing and timber of the new external doors shall be painted, stained or treated with a timber preservative, in accordance with details of that paint, stain or timber preservative to be submitted to and approved in advance in writing by the Planning Authority prior to its use in the development. Thereafter, the paint, stain or timber preservative applied to the outer surface of the framing and timber of the new external doors shall accord with the details so approved.

Reason:

To ensure the satisfactory appearance of the development in the interest of safeguarding the character and appearance of the Conservation Area.

- 9 The roof windows hereby approved shall be installed so as to be as flush fitting as possible with the upper surface of the roof into which it would be installed and with minimal flashing, in accordance with 1:10 or 1:20 scale section drawings showing the size, appearance and flush positioning of the roof windows to be submitted to and approved in advance in writing by the Planning Authority prior to their installation.

Reason:

In the interests of safeguarding the visual amenity of the area and the character and appearance of the Conservation Area.

- 10 Details of any new wall or roof mounted vents and flues to be installed on the existing building shall be submitted to and approved in advance by the Planning Authority. Details shall include 1:5 or 1:10 section drawings and brochures showing the size, design and numbers of the proposed wall or roof mounted vents and flues to be concealed as much as possible and for visible parts to match as closely as possible the colour and materials for the part of the building to which they would adjoin.

Reason:

In the interests of safeguarding the character and appearance of the building and the character and appearance of the Conservation Area.

- 11 Details and a sample of the rendered finish, including its colour, to be used for the external finish of the new boundary wall to be erected along the southwest boundary of the site, and the concrete cope of that wall shall be submitted to and approved in writing by the Planning Authority prior to its use in the development, and thereafter the rendered finish, including its colour, of the new boundary wall and its concrete cope shall accord with the details so approved.

Reason:

To ensure a satisfactory standard of external finish for the boundary wall in the interests of preserving the character and appearance of the building and the character and appearance of the Conservation Area.

- 12 If the metal framework, steps and balustrade handrail of the escape staircase hereby approved to be attached to the northwest (rear) elevation wall of the building are to be painted or finished in a colour, a sample of that paint or colour finish shall be submitted to and approved in advance in writing by the Planning Authority, and the colour of the paint or finish applied to the metal framework, steps and balustrade handrail of the escape staircase shall accord with the sample so approved.

Reason:

To ensure the satisfactory appearance of the development in the interest of safeguarding the character and appearance of the building and of the Conservation Area.

- 13 A sample(s) of the materials to be used to surface the hardstanding areas hereby approved shall be provided for the inspection and approval of the Planning Authority prior to the use of such ground surfacing within the development, and thereafter the surface materials used shall accord with the samples so approved.

Reason:

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

- 14 Prior to the commencement of use of the hostel hereby approved, the upper glazed halves of the new external doors hereby approved for the first and second floors of the northwest (rear) elevation of the building shall be obscurely glazed in accordance with a sample of the obscure glazing to be submitted to and approved by the Planning Authority in advance of its use on the development. The obscure glazing

of the upper halves of the two external doors shall accord with the sample so approved. Thereafter the two external doors of the northwest (rear) elevation of the building shall continue to be obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the neighbouring residential properties of 5A High Street and 4 and 6 Church Street to the northwest and northeast respectively.

- 15 The replacement ground floor window of the northwest (rear) elevation of the eastern part of the building shall be obscurely glazed in accordance with a sample of the obscure glazing to be submitted to and approved by the Planning Authority in advance of its use on the building. The obscure glazing of the window shall accord with the sample so approved. Thereafter the ground floor window on the northwest (rear) elevation of the eastern part of the building shall continue to be obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the neighbouring residential property to the northwest.

- 16 The lower sashes of each of the replacement first floor and second floor windows of the northwest (rear) elevation of the eastern part of the building shall be obscurely glazed in accordance with a sample of the obscure glazing to be submitted to and approved by the Planning Authority in advance of its use on the building. The obscure glazing of the lower sashes of each of the replacement first floor and second floor windows shall accord with the sample so approved. Thereafter the lower sashes of each of the replacement first floor and second floor windows of the northwest (rear) elevation of the eastern part of the building shall continue to be obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the neighbouring residential property to the northwest.

- 17 Other than to access the laundry, bicycle storage, and waste storage, the outdoor space to the northwest and southwest sides of the building shall only be used between 0700 hours and 2300 hours on any day of the week for a period not exceeding one calendar year from the date of the grant of planning permission and thereafter other than to access the laundry, bicycle storage and waste storage, the outdoor space shall only be used between 0900 hours and 2000 on any day of the week unless otherwise approved in writing by the Planning Authority.

Reason:

To restrict use of the outdoor space in the interests of safeguard the amenity of the neighbouring residential properties to the northeast and northwest.

- 18 The residential flat on the attic (third) floor of the building of 2 Queens Road shall be occupied only by a person or persons engaged in the operation of the hostel, including its reception, cafe and guest lounge, use hereby approved and any dependent of such person or persons, and at no time shall it be occupied as an independent dwelling.

Reason:

To ensure the compatibility of use of all parts of the building.

*Sederunt: Councillor Mackie returned to the Chamber.*

## **5. PLANNING APPLICATION NO. 19/00744/P: SITING OF MOBILE SNACK BAR AT SHORE ROAD CAR PARK, BACK ROAD, BELHAVEN, DUNBAR**

A report was submitted in relation to Planning Application No. 19/00744/P. David Taylor, Planning Officer, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Mr Taylor responded to questions from Members on alternative locations for the snack bar within the car park, signage, potential damage to the grass verges, restricting any permission to a maximum of 12 months and whether there had been consultation with the Health & Social Care Partnership on this application.

Lawrence Cairney, spoke on behalf of the applicant. He said his wife had many years' experience in the catering industry and that the proposed site was ideal as the snack bar would be catering mostly to surfers. He confirmed that there would be a litter patrol at the end of each day and that the business would use biodegradable resources. He confirmed that he and his wife were happy with the proposed hours and having their permission reviewed after 12 months.

Ian Hamilton spoke against the application. He said he lived in the house opposite the proposed site of the snack bar and was also speaking on behalf of his neighbour. Their objections related mainly to potential odours and noise as the snack bar would be located less than 10 metres from their homes. He disagreed that the road offered any kind of buffer and he noted that there was no information provided on the type of generator to be used. He disagreed with the assessment that there would be no adverse impact on amenity and he said he knew of no other example of a snack bar in such close proximity to residential properties.

Pippa Swan, on behalf of Dunbar Community Council, spoke against the application. She said that while the Community Council objected to the application that was not to say they were against appropriate proposals to improve facilities in and around Dunbar. However, they did not consider it appropriate that this type of snack bar should be located on the edge of a conservation area and in such close proximity to a quiet residential area. She said they also objected to the proposed look of the unit and had concerns about odours and litter. She concluded that the Community Council objected to the application in its entirety; it was not appropriate and would have an adverse impact on the amenity of the residents and wider area.

In response to further questions from Members, the applicant explained that the photo of the unit in the application papers was an example of the type rather than an image of the actual unit.

Mrs Swan objected to this saying that the application should have included a picture of the actual unit otherwise it was not clear what was being proposed. She also asked why it had been pulled from the Council's website. Mr Dingwall explained that it had not been removed from the website it was simply that while applications were being considered at Committee not all supporting documents were viewable online. Mr Dingwall also confirmed that any planning permission could include conditions relating to the look and size of the snack bar.

Local Member Councillor Kempson said she had called in this application as the car park was situated in an exceptionally beautiful location on the coastline and she was concerned that the application may set a precedent for commercialisation of coastal car parks. She noted that the potential numbers using the car park may affect the viability of the proposals; that it may take business away from the High Street in Dunbar; that it could encourage antisocial behaviour in the area which would impact on the peace and amenity of local residents; and that there may be damage to the grass. She suggested that if planning permission were to be granted the opening hours should be changed to 5pm rather than 6pm. She concluded by questioning whether this proposal supported East Lothian's desire to be seen as a food and drinks tourism destination.

The Convener and Local Member Councillor Hampshire commented that landscape and countryside officers had not properly considered the proposals and there had been no consultation with the wider community. While he acknowledged that a facility of this type in a better location could become an asset, he did not think the site proposed was appropriate and he did not support the application.

Councillor McLeod said he would have been happier if the van were to be sited elsewhere in the car park as he had concerns about the location proposed in the application.

Councillor Findlay said he had no problem with a snack bar in that general area but he felt that the propose site was wrong. He added that if the application had been for a different site he might come to a different view but, in this case, he did not agree with the officer's recommendation.

Councillor McMillan acknowledged that while East Lothian wanted to be seen as a food and drinks tourism destination it also wanted to be a county that encouraged the growth of small businesses. He was aware that students and other young people visited Dunbar to surf and that this proposal provided the type of food outlet they might prefer. However, he was not convinced that the location was appropriate given its proximity to local residences. He also noted the community council's point about considering which proposals would add value to the area. He would not be supporting the officer's recommendation.

Councillor O'Donnell said she understood the concerns expressed by local residents but most of the objections were not material planning considerations. She was satisfied by the report from Environmental Health and the proposal to review the planning permission after one year.

Councillor Williamson referred to comments made about the type of food and the look and size of the van. He noted that conditions would be put in place to address some of these issues and that any permission would only be for one year and that there would be an opportunity to review matters and perhaps consider alternative locations within the car park at the end of that period. On balance, he would be supporting the officer's recommendation.

The Convener brought the discussion to a close. He said he was not against the idea of a snack bar in principle but that this was the wrong location. He was in agreement with the local member and he would not be supporting this application.

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

For: 5  
Against: 6  
Abstentions: 0

**Decision**

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

1. In its prominent roadside location, the proposed mobile snack bar would harm the character and appearance of this part of the John Muir Countryside Park; and
2. The operation of the proposed mobile snack bar in such close proximity to residential properties would be likely to harm the privacy and amenity of those nearby properties.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee



**REPORT TO:** Planning Committee

**MEETING DATE:** Wednesday 18 December 2019

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

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

**2**

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***Note** - This application was called off the Scheme of Delegation List by Councillor O'Donnell for the following reasons: given the large number of objections from local residents, the range of concerns raised by them and Cockenzie and Port Seton Community Council in relation to Health & Safety risks, noise, and loss of amenity, I ask that this application is called off the list so that the technical and environmental aspects of this application can be discussed in public by the Planning Committee.*

*This application was also called off the List by Councillor Bruce for the following reason: due to the large amount of interest and concern from local residents around this application, I believe the decision would be best made by Committee.*

Application No. **19/00588/P**

Proposal                      Erection of equipment testing facility, ancillary office, storage structures (Class 5) and associated works for a temporary period of 5 years

Location                     **Former Cockenzie Power Station Site  
Prestonpans  
East Lothian**

Applicant                     Skyrora Limited

Per                             Marwick Planning

**RECOMMENDATION**                     Consent Granted

## **REPORT OF HANDLING**

### **PROPOSAL**

This planning application comprises part of the former Cockenzie Power Station site and more specifically a 0.45 hectare area of land occupying part of the former Coal Store of the former Cockenzie Power Station.

Cockenzie Power Station was a coal-fired power station, which was in operation until 2013.

In October 2011 the Scottish Government granted planning permission (Ref: IEC/CKE/001) under Section 36 of the Electricity Act 1989 to Scottish Power for the conversion of the power station building and operation of it as a Combined-Cycle Gas Turbine plant (CCGT) on the land of the former Cockenzie Power Station site. The Power Station has since been demolished.

In August 2015 Scottish Power announced that they would not be progressing with the development of a CCGT on the application site.

In March 2018 Scottish Power sold the former Cockenzie Power Station site to East Lothian Council. The land sold to the Council, which has an area of nearly 100 hectares, includes Preston Links and land to the south of the Cockenzie Coal store. The area of land sold to East Lothian Council also includes the current application site.

Planning permission in principle 18/00189/PPM was granted by Scottish Ministers in February 2019 following the call in of the application for proposed onshore transmission works associated with the Inch Cape Offshore Wind Farm comprising the construction, operation and decommissioning of an onshore substation, electricity cables and associated infrastructure required to export electricity from the Inch Cape Offshore Wind Farm to the National Electricity Transmission System infrastructure required to export electricity from the Inch Cape Offshore Wind Farm to the National Electricity Transmission System on an area of the former Cockenzie Power Station site to the north of west of the current application site.

Planning permission is now sought through this application for the erection of an equipment and propulsion testing facility, ancillary office, storage structures (Class 5) and associated works for a temporary period of 5 years.

The wider former coal storage depot of the former Cockenzie Power Station is enclosed by an existing bund approximately 8 metres in height. The application site by being located within the south east corner of the former coal storage depot is similarly largely enclosed by the existing bunds. The application site is accessed by the existing track which served the former coal storage depot. This access track connects with the B6371 public road to the east and the B1348 public road to the north.

The proposed rocket engine test centre would be located within a compound within the south east corner of the former coal store depot and would consist of a number of structures including a test chamber, fuel storage and feeding mechanism structures and a welfare building. The proposed compound would be accessed from the existing access track to the south of the application site reusing the former access route to the former coal storage depot.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls under the development description Schedule 2, Section 11 (f) of the EIA Regulations, in that it is an "other project, test benches for engines, turbines or reactors" which exceeds the 1,000 m<sup>2</sup> of new floor space threshold, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA.

On 12th April 2019 the Council issued a formal screening opinion to the applicant. The screening opinion concluded that it is East Lothian Council's view that the proposed development by virtue of its characteristics, location and characteristics of the potential

impact, is unlikely to have a significant environmental effect to the extent that an expert and detailed study through EIA is needed to properly assess any effect. Whilst it is considered that the development would require robust assessments and possible mitigation in respect of a number of issues, it is the opinion of East Lothian Council as planning authority that the proposed development does not constitute 'EIA development' under the terms of the EIA regulations. As such it is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

The applicant's agent has submitted a Design and Access statement in support of the planning application. The statement advises that:

'The proposal is for a rocket engine test centre with associated storage and welfare facilities. This is being developed for Skyrora one of Scotland's leading space engineering companies who will use the site to test rocket engines, which will further their research into the development of small satellite launch vehicles.

The site itself is an ideal location for the facility as the existing bund which enclosed the wider site, screens the surrounding areas from both the visual and acoustic impact of the development. The development has been situated to the South East corner of the site which further minimises any impact on the surrounding settlements, whilst allowing the remaining site to be utilised simultaneously if required.

The proposed structures consists of a 9m test chamber to the North of the compound with associated storage, feeding mechanisms and welfare facilities situated to the South. Adequate space has been allowed within the compound for the delivery of the fuel required for the rocket engine testing. The facility will be situated within a secure compound accessed from the South of the site. The proposed access reuses the former access route to the coal storage depot.

The proposal provides an exciting opportunity for East Lothian with the introduction of one of Scotland's leading space research companies to the region.

There will be very little visual impact due to the height of the existing bund. The bund will also mitigate any sound produced during periods of testing.

The temporary use of the site for the facility allows a currently vacant site to be occupied whilst safeguarding any future use of the site as outlined in the Local Development Plan.

In summary the development provides a great opportunity for East Lothian and has been developed to minimise its impact on the surrounding area and will safeguard future use of the site.'

In addition to the Design and Access statement the applicant has also submitted a Planning Statement which states:

'Skyrora Limited is developing launch vehicle technology for small satellites with the aim to reduce the cost of space launches through the combination of proven technology and advanced engineering methods. They build robust supply chains, creating new employment opportunities throughout their industrial sector using their vision to inspire the next generation of talent. With the UK Government aiming to capture 10% of the global space market, Skyrora believes now is the perfect time for a cost effective launch provider to turn UK launch plans into a reality.

Once the construction of the proposal is complete, it is anticipated that 5 members of staff

will be required on site when testing is being undertaken, with no staff based on site permanently.

The fuel for the testing facility used is Kerosene with Hydrogen Peroxide used as an oxidiser due to its long term launch site storability without the need for cryogenics.

Although indicative in nature, a typical test day event sequence could look as follows:

Day 1:

- i) Update of social media and email mailing list confirming testing;
- ii) Preparation at headquarters in Edinburgh, and industrial premises at Loanhead; and
- iii) Ordering of Kerosene

Day 2

- i) Movement of engine to site; and
- ii) Delivery of Kerosene and Hydrogen Peroxide

Day 3

- i) Final check of all equipment for safety and engine test;

Day 4

- i) Removal of engine and other moveable parts

Day 5

- i) Secured site left until next test.

Although the proposed development is not a use for a thermal power generation, or carbon capture use, we are proposing a use that is within the spirit and typology of Policy EGT1 located on a previously heavy industrial used site. The proposal only takes up 0.45ha which is a small portion of the wider site, which would not compromise the aims and objectives of the policy maker.

The proposed development would not only provide for the first occupant of the brownfield site, it would stimulate further investment and interest in the wider site. It will also provide for a development with associated unique skilled labour force within the administrative boundary of East Lothian Council and will start the realisation of the wider masterplan for the former Cockenzie Power Station.'

## **DEVELOPMENT PLAN**

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

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

Relevant to the determination of the application are Policy 10 (Sustainable Energy Technologies) of the approved South East Scotland Strategic Development Plan (SESplan).

Material to the determination of the application are Proposal EGT1 (Land at Former Cockenzie Power Station), Policies DP1 (Landscape Character), DP2 (Design), CH5 (Battlefields), NH5 (Biodiversity and Geodiversity interests, including Nationally Protected

Species), NH12 (Air Quality), NH13 (Noise), T1 (Development Location and Accessibility) and T2 (General Transport Impact).

Proposal EGT1 states that land at the Former Cockenzie Power Station will be safeguarded for future thermal power generation and carbon capture and storage consistent with National Development 3. Land at Cockenzie may also present significant opportunities for renewable energy-related investment. The council will work together with developers, the landowner, the relevant agencies, local organisations and interested parties, including local residents to ensure that the best use is made of the existing land and infrastructure in this area. If there is insufficient land for competing proposals, priority will be given to those which make best use of the location's assets and which will bring the greatest economic benefits.

Development proposals must avoid unacceptable impact on the amenity of the surrounding area, including residential development.

The adopted East Lothian Local Plan 2018 also states that there may also be potential for intermediate proposals on the Former Cockenzie Power Station site.

Following the decommissioning and subsequent demolition of the Cockenzie Power Station in September 2015 it was acknowledged that the wider former Cockenzie Power site provides an opportunity to redevelop the site for the benefit of the local and wider community. The Council commissioned a masterplanning process (with funding contribution from Scottish Enterprise) for the land formerly in Scottish Power's ownership at the former Cockenzie Power Station, the 'Cockenzie masterplan document'. This was prepared following consultation with the communities.

The Cockenzie masterplan document has not, however, been formally endorsed by the Council or adopted as supplementary planning guidance, and has not been through the necessary technical and environmental assessments (including Strategic Environmental Assessment, Habitat Regulations Assessment) which would allow this. It can therefore be accorded limited weight at this time. However, it is the result of significant community and stakeholder consultation with local communities and stakeholders, including national public sector agencies, industry bodies, businesses and local schools'. Over 330 responses were made to the first stage of consultation.

The masterplan document identifies and utilises key site assets and features within and around the site including the transformer and connection to the national grid, the coal store area, its coastal location and pier, accessibility to the road network and rail siding, the John Muir long distance route, the historic Waggonway and sites associated with the Battle of Prestonpans. The masterplan document shows a potential distribution of uses across the whole NRG1/EGT1 sites, showing how these could be accommodated in a complementary way on the site and the general ambition and aspiration generated.

Scottish Planning Policy states that planning authorities should seek to protect, conserve and, where appropriate, enhance the key landscape characteristics and special qualities of sites in the Inventory of Historic Battlefields.

## **REPRESENTATIONS**

A total of 168 written representations have been received to this application. 165 of these written representations make objections to the proposed development. One representation raises no objection but makes a number of observations. One representation is in support of the proposal.

The main grounds of objection are:

- i) Noise impact/pollution/smell on nearby schools, residential properties, wildlife and visitor attractions;
- ii) Concern over chemical substances such as hydrogen peroxide and kerosene being stored on site;
- iii) Impact on nearby health centre, the main Edinburgh to London railway line and the new town at Blindwells;
- iv) Objector is landlord of 4 properties within Prestonpans and Port Seton and the proposal would ruin their investment in the area;
- v) No long term jobs being created, brings nothing to the local community and will not enhance the area;
- vi) Concern over transport of highly combustible rocket fuel through Cockenzie past a school, medical centre and residential properties;
- vii) Testing should not be carried out so close to residential areas;
- viii) Concern over safety of local residents of rockets or fuel catching fire and exploding;
- ix) Objector does not consider there is sufficient information available regarding both ground and air vibrations regarding the test firings and potential damage to dwellings;
- x) Concern over general safety, the building of the facility on a former coal facility does seem risky;
- xi) No safety provisions in place as regards noise levels, duration of tests and the safe storage of any fuel required for said testing;
- xii) No environmental impact statement on safeguards in case of spillages of fuel or air pollution;
- xiii) The brownfield site proposed is set out by East Lothian Council as a development site for industrial use to create jobs for the surrounding area - this proposal will create no jobs/opportunities for the community;
- xiv) The proposal and itself contradicts itself on the noise levels, the environmental effects and the length of the testing;
- xv) Children use the path right next to the testing site (the Waggonway) as a route to Preston Lodge High School, this could be hazardous both from noise point of view and safety point of view;
- xvi) The construction of this facility will deter other industry from using the rest of the land as the noise and hazards will prevent use of the rest of the land;
- xvii) The proposal and consent should include constant independent testing on noise levels, vibration and environmental pollution throughout the 5 years;
- xviii) Any proposal should include plans for all residents to be made aware of what to do in an emergency before the facility opens;
- xix) No neighbours notified of application;
- xx) Health implication of dangerous noise levels and potential property damage during testing periods due to vibration levels and possibility of increased subsidence in residential properties in the surrounding area based on historic mining activities;
- xxi) Skyrora as a company could not answer relevant questions including on safety and noise impacts that were voiced from the community;
- xxii) Tests were originally stated as lasting 30 seconds but we are now told that could be extended to 180 seconds;
- xxiii) If the noise testing is so loud it could affect future house prices and create noise and environmental pollution;
- xxiv) Residents have suffered noise, dirt and disruption from the Cockenzie Power Station and don't wish another noisy neighbour;
- xxv) In light of the Climate Emergency that we all face, I would hope the council would require strong environmental impact assessment of this proposal for new activity in the area beyond that which has been submitted;
- xxvi) No logical reason to say a former industrial site must be replaced by industry;
- xxvii) Impact on air quality and climate change impact;
- xxviii) What will happen to birdsong currently recorded as the dominant 'noise' at

Cockenzie;

xxix) Proposal does not fit with the Cockenzie Masterplan which states that the site must provide jobs;

xxx) A facility like this should be located in a remote rural location not in close proximity to residential areas;

xxxi) No public consultation;

xxxii) Road safety- there have been some 12 accident near the site entrance in the past 5 years , this will only increase;

xxxiii) No one on site outwith the time the rockets are being launched/tested this is against health and safety with flammable explosive materials on site it requires 24hour staff;

xxxiv) No mention in the paperwork of any Disaster Recovery Plan;

xxxv) Mental health impact, (anxiety caused by noise of testing) on elderly and young and on veterans who may potentially be suffering PTSD to be housed at Osbourne Court and refugees being located in the area;

xxxvi) Impact on house prices and resale of properties;

xxxvii) Visual appearance - completely against what should be getting built near to a coastline, entirely out of keeping with the area;

xxxviii) Skyrora have reduced the number of tests from what was originally proposed, They do not appear to be a company you could trust to stick to their word and are going through the motions in order to get up and running, once they get that they will "move the goal posts" and do what they want;

xxxix) The orientation of the test facility is such that noise, vibration and exhaust fumes will be channelled directly at housing in the immediate vicinity of the test facility.

There were no notifiable neighbours with an interest in 'adjoining land' (within 20 metres of the application site boundary), however the planning application was advertised in the local press and public meetings were held by the applicant regarding the proposal which were attended by members of the public and members of the local Community Councils.

The matter of the impact on house prices/resale of properties/devaluation of nearby residential properties is not a material consideration in the determination of this planning application.

The matters of noise, air quality/pollution, storage/use of fuel on site, road safety and visual impact are assessed later in this report.

One letter of written representation is support of the proposal. The reason for support is:

(i) This will bring growth to the East Lothian area and much needed specialised jobs.

## **COMMUNITY COUNCIL COMMENTS**

Cockenzie Community Council objects to the proposal on the grounds that the proposed development is far too close to residential areas.

It is the community council's opinion that the area measured in the submitted Noise Assessment Report is not extensive enough. The existing bund is not maintained around the entire site and this may result in an increased noise level especially to pedestrians and cyclists at these points. The report mentions birdsong as being the main noise over most of the monitored points. This is a familiar sound to most people while a rocket testing noise is not. No account seems to be made between familiar noise and unfamiliar noise at any level. The report states at 5.1.1 that significant adverse impacts have been identified at Noise Sensitive Receptors surrounding the site during tests. This has been amended in the new noise report with more testing and noise attenuation measures included if necessary, this amendment seems to confirm that the applicant is not clear as to the noise

level that will be created. These may be similar to existing noises but they will be in addition to these and should not be imposed on residential areas.

The access road as proposed goes down the B6371, past the old coal yard entrance, Avenue Road and along the B1348 to the entrance by the car wash site. This means that traffic will go past the school and many residential streets. The Community Council do not understand why the existing entrance on the B6371 is not being used. The addition of proposed deliveries through Port Seton and Prestonpans, depending on the suppliers, as stated in the report addendum document, is unacceptable. This will involve many more residential and commercial areas using roads that are very prone to serious road traffic accidents.

The Community Council advise that they have had consultations with Skyrora and that Skyrora mentioned that the open side of the test chamber would have an extensive buffer in front. The submitted drawing does not appear to show this. The reports do not mention any pollution other than noise. The Community Council think that an environmental report should be submitted to cover all aspects of pollution that may or may not occur. This should also state the dangers relating to kerosene and hydrogen peroxide being transported to the site and the use of when testing.

Prestonpans Community Council are supportive of the application on the basis that East Lothian Council Environmental Health will monitor the noise levels of the rocket tests to ensure that they comply with the agreed noise limits. Prestonpans Community Council would also ask that road access to the site should be via the B6371 and not the B1348 (coast road) as is currently proposed. Whilst not directly planning related factors the local Prestonpans community would welcome a goodwill commitment from the applicant to work closely with the local high school at Preston Lodge in developing its STEM applications and that Skyrora give consideration to offering education bursaries to local pupils to enable them to follow a career in science and technology.

## **PLANNING ASSESSMENT**

The application site is part of the wider former Cockenzie power station site with the current application site being last in use as part of the coal storage depot of the former power station. Since the power station was demolished the application site has been lying unused. The former wider coal storage depot is enclosed by an existing bund approximately 8 metres in height as such the application site, by being located within the south east corner of the former coal storage depot, is largely enclosed by the existing bunds with the northern and western boundaries of the application site being more open to the wider former coal store depot with the bunds on the northern and western boundaries of the former coal store depot beyond. The application site is accessed by the existing former access track which served the former coal storage depot to the south of the application site and which connects with the B6371 public road to the east and the B1348 public road to the north.

The proposed rocket engine test centre would be located within a compound within the south east corner of the former coal store depot and would consist of a number of structures including a test chamber, fuel storage and feeding mechanism structures and a welfare building.

The proposed use of the application site as a propulsion and ancillary equipment testing facility with an ancillary office, storage structures (class 5) and associated works is not a thermal power generation and carbon capture and storage use. However there are no current or imminent proposals for such a use on either the current application site or any part of the wider former Cockenzie Power Station site.



While in June 2014 a Proposal of Application Notice (Ref: 14/00015/PAN) was submitted by Scottish Enterprise. The Notice indicated that Scottish Enterprise intended to bring forward a planning application for an energy park on land that included the Cockenzie Power Station and Coal Yard site. The site the subject of planning application 14/00015/PAN included the land that is the subject of this planning application. However, a planning application has not, to date, been submitted in respect of this proposal and it is understood that Scottish Enterprise have withdrawn their interest in this proposal.

As such there are no firm proposals for the site, other than that which is the subject of this current planning application. However this is perhaps not unsurprising, given the relatively recent change in ownership and the fact that the site has not yet been marketed. East Lothian Council intends to market the site and it should be noted, that the Council has received a number of enquiries from interested parties and has engaged with the relevant Scottish and UK government departments in respect of the economic and development potential of the site, including with Scottish Enterprise. The Council's Economic Development and Strategic Investment Manager advises that on the basis that all environmental health checks will be undertaken, Economic Development is in favour of this application as it would offer an economic use, albeit temporary, for part of the Former Cockenzie Power Station site. While the development will not create jobs and will be used as a testing facility with intermittent use of the facility, it will provide a temporary use for part of the former Cockenzie Power Station site and the Economic Development Manager may act as catalyst for other uses, including job-creating ones.

The Council's Project Manager for the former Cockenzie Power Station site raises no objection to the proposed temporary use of the site for a period of five years, as proposed through this application.

The proposed use of the application site as a propulsion and ancillary equipment testing facility with an ancillary office, storage structures (class 5) and associated works is sought for a temporary period of five years given this, should it be acceptable on other material considerations, the proposed temporary use of the site would not prejudice the long term use or future development of either the current application site or the wider former Cockenzie power station site and would in fact provide a temporary use of the currently unused site. As such the proposal would not be contrary to Proposal EGT1 of the adopted East Lothian Local Development Plan 2018.

The proposed structures which would be located within the proposed rocket engine test centre would consist of a 9 metre high test chamber which would be enclosed on three sides with ballistic grade concrete panels while the north elevation of the test chamber would be open. The roof of the test chamber would have a shallow mono pitch roof clad in profile sheeting coloured blue. The test chamber would be located to the north of the compound with associated storage, feeding mechanisms and welfare facilities situated to the south of it.

The fuel storage would be housed in a metal clad structure which would measure some 2.7 metres high and which would measure some 2.5 metres wide by 12 metres long while the proposed feed tanks would be housed in open framed structures one with a height of some 4.8 metres and one with a height of some 8.8 metres. A welfare facility building in the form of a modular building with profiled metal cladding would also be located within the compound. The welfare building would be flatted roofed and would be some 2.7 metres in height and would measure some 7.5 metres long by 4 metres wide. The cladding of the welfare building would be coloured white with blue metal fascia panels. The welfare building would provide an accessible toilet and a staff space, there would be no openings within the north, south or west elevation however there would be three openings on the

east elevation in the form of a pedestrian door opening and two windows.

Four parking spaces and four cycle parking spaces would be provided adjacent to the welfare facility building.

The applicant's agent has submitted a Landscape and Visual Impact Assessment report in support of the application which concludes that the proposed development will not adversely affect the approaches to Prestonpans, Cockenzie/Port Seton nor diminish the quality of their overall setting. The proposed development will not adversely affect designed landscapes or the site of the Battle of Prestonpans nor will it affect the local footpath network.

The proposed development is located within a generally contained landscape enclosed by landform and woodland. Given the proposed facility's location within the south eastern corner of the former coal store depot which is enclosed by the existing bund, the majority of the structures within the proposed facility would be located below the level of the existing bund and as such would not be readily visible from outwith the application site. Short glimpses of the top of the test chamber at some 9 metres high and the top of one of the open steel structure feed tank towers at some 8.8 metres high may be visible in short aspects however they would not appear visually prominent or intrusive in the landscape setting. Overall the proposed development would not have an unacceptable impact on the visual amenity of the area. As such the proposal is consistent with Policies DP1 and DP5 of the adopted East Lothian Local Development Plan 2018.

The applicant's agent has submitted a Noise Assessment Report in support of the application which has been amended during the determination process of the application. The Council's Environmental Protection Manager has reviewed this amended report and has advised that the amended Version 4 Noise Report submitted considers impacts upon Noise Sensitive Receptors based upon revisions to noise levels of source and changes to both the number and frequency of tests. It was originally proposed that noise levels from the source would be 140dB. This has been considered an over-estimate and it is now anticipated that noise levels of the source (the Specific Noise Level) will be no more than 125dB and possibly less.

As an amendment to the application, the number of the proposed tests has reduced from 70 per month to 5 per month. It was also confirmed that tests would be no more than 30 seconds in duration.

Given the significant reduction in the number and frequency of the proposed tests from 70 per month to 5 per month The Council's Environmental Protection Manager is satisfied that impacts upon Noise Sensitive Receptors including the residents of residential properties within the locality of the application site, will be low. As such the Council's Environmental Protection Manager raises no objection to the proposal subject to the recommendation that the following conditions be attached to any grant of planning permission:

- (i) The duration of firing of any rocket engine during any rocket tests shall be restricted to no more than 30 seconds.
- (ii) The number of firing events of rocket engines during any rocket engine tests shall be restricted to no more than 1 per day.
- (iii) The frequency of any firing of rocket engines during any rocket engine tests shall be restricted to no more than 5 days per calendar month.
- (iv) The time of any firing of rocket engines during any rocket engine tests shall be

restricted to between 1000 hours and 1600 hours.

(v) The Specific Sound Level associated with the firing of rocket engines during rocket engine tests at compliance monitoring positions (CMP's) shown in Figure 1 of ITP Energised's Noise Assessment Report ref EDI\_1559 Version 4 of 23rd August 2019 shall not exceed the following:

LOCATION OF CMP Maximum Specific Sound Level, dB LAeq, 30 sec  
CMP 1 - Close to Whin Park 54  
CMP 2 - Cedar Drive 60  
CMP 3 - South of site 45

(vi) Compliance noise monitoring shall be conducted by the applicant at each CMP described in Condition (v) above during the first 5 rocket tests to confirm that the maximum Specific Noise Level per Condition (v) above is met

(vii) The results of compliance monitoring per condition (vi) above shall be provided to the Planning Authority within 1 month of Test No 5 taking place. The results shall be included in a Compliance Noise Monitoring Report.

(viii) If the measured levels at any CMP exceed the Maximum Specific Sound Levels described in Condition (v) above then Rocket Engine Testing at the facility will cease until such times as any further noise mitigation measures have been identified and implemented. The details of any further mitigation measures shall be described within the Compliance Noise Monitoring Report referred to in Condition (vii) above.

(ix) The requirements stipulated in Conditions (vi), (vii) and (viii) shall be repeated as required until such times as Compliance Monitoring confirms the Maximum Specific Sound Level described in Condition (v) is met.

The above controls can reasonably be secured as conditions imposed on the grant of planning permission and subject to them The Council's Environmental Protection Manager is satisfied that on the matter of noise, the operation of the proposed scheme of development would not be harmful to the amenity of any nearby residential properties. Accordingly the proposal is consistent with Policy NH13 of the adopted East Lothian Local Development Plan 2018.

At the request of The Council's Environmental Protection Manager the applicant's agent has submitted an Air Quality Assessment report in support of the application. The Council's Environmental Protection Manager has advised that the submitted Air Quality Assessment Report has been assessed and that The Council's Environmental Protection Manager accepts that the proposed testing of the Rocket Engines will not result in any exceedance of statutory Air Quality Objectives or significantly impact upon local air quality. Accordingly the Council's Environmental Protection Manager is satisfied that on the matter of air quality, the operation of the proposed scheme of development would not be harmful to the amenity of any nearby residential properties. Accordingly the proposal is consistent with Policy NH12 of the adopted East Lothian Local Development Plan 2018.

The applicant's agent has submitted an Ecological Baseline Report in support of the application. This report concludes that there is no evidence of any protected species on the application site and that given the previous use of the site it contains 7 different habitats however none of these habitats are of high value. Scottish Natural Heritage (SNH) as a consultee on the application advise that the application site lies within 2km of the Firth of Forth Special Protection Area (SPA) classified for its waterfowl and migratory bird interests. Scottish Natural Heritage advise that it is their view that it is unlikely that the

proposal will have a significant effect on any of the qualifying interests either directly or indirectly. An appropriate assessment is therefore not required. Modelling has been carried out to investigate the possible noise impacts from the engine testing on the qualifying bird interests of the Firth of Forth SPA. This has demonstrated that the noise produced would be under 75dB at the closest location likely to be used by the birds (i.e. the 'Green Hills' area west of the former Cockenzie power station site). SNH therefore advise that there is no impact pathway between this proposal and the SPA bird interests. They are satisfied that the birds will not be disturbed by the level of noise emitted by this engine testing facility, in addition the noise will be produced only very intermittently and for very brief periods each day. Accordingly SNH raise no objection to the proposed scheme of development.

The Council's Biodiversity Officer raises no objection to the proposed scheme of development being satisfied that the proposal would not have an adverse impact on the biodiversity of the site or nationally protected species. Accordingly the proposal is consistent with Policy NH5 of the adopted East Lothian Local Development Plan 2018.

The application site is within a Coal Authority Development High Risk Area. In such areas there are existing recorded risks to the ground stability which need to be assessed and mitigated as part of the new development proposals in the interests of public safety. The Coal Authority's Guidance for Scottish Planning Authorities: 2017 clearly states that any planning application for development which intersects the ground in the Development High Risk Area requires a desk based Coal Mining Risk Assessment and once this has been provided, consultation with the Coal Authority. A Phase 1 Geo-Environmental Assessment (May 2019) was submitted with the planning application which included details of a coal mining risk assessment. The Coal Authority were consulted on the application and advised that they consider an adequate assessment of the coal mining risks associated with this development has been carried out. Therefore taking into consideration the report's recommendations that targeted site investigation works are to be undertaken, in order to inform the design of the remedial/mitigatory measures The Coal Authority raises no objection to the proposal, subject to a condition being imposed on any planning permission granted requiring that the recommended site investigation works be undertaken prior to commencement of development. This matter can be controlled through a condition of a grant of planning permission.

The Scottish Environment Protection Agency (SEPA) originally objected to this planning application on the grounds of lack of information on the processes associated with this proposed scheme of development with regards to the proposed fuels for the tests which may have meant the site could fall under the COMAH and Hazardous Substances Consent regimes. However, following receipt of additional information on the matter of the fuels to be used at the proposed facility SEPA have confirmed that the proposed scheme of development and activity is well under any COMAH threshold and as such has withdrawn their objection to the proposed scheme of development. SEPA have also advised that the application is accompanied by an updated section of the flood risk assessment (FRA) for Cockenzie and that the site does not appear to be at flood risk. Accordingly SEPA raise no objection to the proposed scheme of development on the matters of fuel use, fuel storage or flooding.

Edinburgh Airport as a consultee on the application have examined the proposed development from an aerodrome safeguarding perspective and confirm that the proposal does not conflict with safeguarding criteria. As such Edinburgh Airport raise no objection to the proposal.

The Ministry of Defence Infrastructure Organisation as a consultee on the application has advised that whilst the application site is not within a statutory safeguarding area, it is in

proximity to the Eskdalemuir Seismic array. This technical safeguarding site is particularly sensitive to any seismological vibrations. However, the Defence Infrastructure Organisation has confirmed that on reviewing the trial schedule and noise assessment submitted with the application the Ministry of Defence has no safeguarding objections to this proposal.

As the application site lies within the designated battlefield site of the Battle of Prestonpans, Historic Environment Scotland (HES) have been consulted on the application. HES raise no objection to the application, being satisfied that the proposed development would not have a significant adverse effect on the key features of the Battlefield. HES also advise that they are also satisfied that the proposed development would not have a significant adverse effect in relation to the Seton West Mains Scheduled Monument which is located some 330 metres to the south of the application site. On this consideration the proposal is consistent with Policy CH5 of the adopted East Lothian Local Development Plan 2018.

The Council's Heritage Officer advises that the application site lies within the boundary of the Inventory Battlesite for Prestonpans and there are Scheduled Archaeological remains in close proximity. However, the area has been heavily disturbed by the previous use of the site (coal store) and has a limited footprint and low visibility from heritage receptors. Therefore in terms of the Historic Environment there is limited if any potential for either direct or indirect impacts. In light of this any recommendations in relation to the Historic Environment would be disproportionate to the impact of the development. As such The Council's Heritage Officer raises no objection to the proposal being satisfied that the proposal would not have a significant adverse effect on the key features of the battlefield, including its key landscape characteristics and special qualities. Accordingly the proposal would not be contrary to Policy CH5 of the adopted East Lothian Local Development Plan 2018.

In support of the application, the applicant's agent has submitted a Transport statement detailing the proposed access, parking, type and number of vehicle movements to the site in order to assess the likely impact of the proposed development on pedestrian and road safety. The Council's Road Services has reviewed this report and the proposed scheme of development and raises no objection to the proposal being satisfied that it would not have an adverse impact on pedestrian or road safety subject to the requirement for a construction method statement being submitted for approval prior to the commencement of development. This matter could be controlled through a condition of a grant of planning permission. Accordingly the proposal is consistent with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

In conclusion given all of the above and subject to the aforementioned conditions the proposed development is not contrary to Policy 10 of the approved South East Scotland Strategic Development Plan and Proposal EGT1, Policies DP1, DP2, CH5, NH5, NH12, NH13, T1 and T2 of the adopted East Lothian Local Development Plan 2018 and Scottish Planning Policy 2014.

## **RECOMMENDATION**

That planning permission be granted subject to the following conditions:

- 1 The equipment testing facility use hereby permitted shall cease and all of the components of the approved development shall have been removed entirely from the site and the land of the site restored to its former condition by no later than the 18 December 2024.

Reason:

To control the development to that applied for and so as not to prejudice the potential long term use of the site.

- 2 (a) The duration of firing of any rocket engine during any rocket tests shall be restricted to no more than 30 seconds.  
(b) The number of firing events of rocket engines during any rocket engine tests shall be restricted to no more than 1 per day.  
(c) The frequency of any firing of rocket engines during any rocket engine tests shall be restricted to no more than 5 days per calendar month.  
(d) The time of any firing of rocket engines during any rocket engine tests shall be restricted to between 1000 hours and 1600 hours.  
(e) The Specific Sound Level associated with the firing of rocket engines during rocket engine tests at compliance monitoring positions (CMP's) shown in Figure 1 of ITP Energised's Noise Assessment Report ref EDI\_1559 Version 4 of 23rd August 2019 shall not exceed the following:

LOCATION OF CMP	Maximum Specific Sound Level, dB LAeq, 30 sec
CMP 1 - Close to Whin Park	54
CMP 2 - Cedar Drive	60
CMP 3 - South of site	45

(f) Compliance noise monitoring shall be conducted by the applicant at each CMP described in Condition (e) above during the first 5 rocket tests to confirm that the maximum Specific Noise Level per Condition (e) above is met.

(g) The results of compliance monitoring per condition (f) above shall be provided to the Planning Authority within 1 month of Test No. 5 taking place. The results shall be included in a Compliance Noise Monitoring Report.

(h) If the measured levels at any CMP exceed the Maximum Specific Sound Levels described in Condition (e) above then Rocket Engine Testing at the facility will cease until such times as any further noise mitigation measures have been identified and implemented. The details of any further mitigation measures shall be described within the Compliance Noise Monitoring Report referred to in Condition (g) above.

(i) The requirements stipulated in Conditions (f), (g) and (h) shall be repeated as required until such times as Compliance Monitoring confirms the Maximum Specific Sound Level described in Condition (e) is met.

Reason:

To ensure the operation of the facility hereby approved is restricted to that applied for and that there is no intensification of use in the interests of safeguarding the amenity of neighbouring residential properties.

- 3 Prior to the commencement of development the targeted site investigation works as recommended in the Geo-Environmental Assessment (May 2019) Report prepared by Energised Environments Limited docketed to this permission shall have been carried out and a report detailing the investigations, findings and any required remedial works undertaken submitted in writing to the Planning Authority.

Reason:

To ensure the potential risks posed to the development by past coal mining activity are investigated and treated if found to be necessary.

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

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

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





**REPORT TO:** Planning Committee  
**MEETING DATE:** Wednesday 18 December 2019  
**BY:** Depute Chief Executive (Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

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**3**

Application No. **16/00970/PM**  
Proposal: Erection of 76 houses, 4 flats and associated works  
Location: **Land To The North Of Castlehill  
Main Street  
Elphinstone  
East Lothian**

Applicant: Highland Residential Developments Ltd  
Per: EMA Architecture and Design

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

### **PROPOSAL**

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

As a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 16/00016/PAN) and thus of community consultation prior to this application for planning permission being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that it is estimated that some 100 members of the community attended

the pre-application consultation event which was held for one day at the Elphinstone Community Centre on the 28th September 2016 and that those attendees made a number of queries and suggestions regarding the proposals. The development for which planning permission is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation on the proposals.

The application relates to some 4.5 hectares of farmland which forms the southern part of a large (10 hectare) field, located immediately to the west of the village of Elphinstone. It is bounded to the north by the remainder of the large field of which it forms part; to the east by a woodland strip which forms the western edge of the village of Elphinstone and beyond that by the residential properties along the western side of Elphinstone; to the south partly by a small public park and by the residential properties of Lynhaven and Marchwood Court and partly by the B6414 classified public road of Main Street beyond which lies Elphinstone Primary School and Community Centre, residential properties and an equestrian paddock and to the west by a track which is designated a core path (route no. 458) and as a Right of Way (Elphinstone west end to Fa'side) and beyond that by the Elphinstone Football Ground, the residential property of Towerhill and further farmland.

The topography of the site is gently undulating and generally slopes uphill from the southeast to the north and northwest. The land continues to rise uphill to the north of the site. The site is most visible in the main approaches to Elphinstone from the west and the north and from the North Elphinstone to Fa'side Right of Way (Core Path 163) to the north of the site.

The western part of the site is within an area identified by The Coal Authority as being a Coal Mining Development High Risk Area. The eastern part of the site is within an area identified by The Coal Authority as being a Coal Mining Development Low Risk Area.

The land of the application site along with the remainder of the large field of which it forms part is allocated for housing development by Proposal TT11 (Elphinstone West) of the adopted East Lothian Local Development Plan 2018 (ELLDP).

Planning permission is sought through this application for the erection on the application site of 76 houses, 4 flats and associated works. The associated works include the provision within the site of 15 car parking spaces to serve the Elphinstone Football Ground, the planting of woodland strips, the provision of SUDS and the provision of open space within the site. Since the registration of the application, a number of non-material amendments have been made to the proposals resulting in the submission of revised site layout and landscaping plans, road and footpath layouts, SUDS details and amendments to house design and housing numbers. The revisions include a reduction in the total number of residential units proposed from 90 to 80 (consisting of 76 houses and 4 flats).

The development site layout plan shows how the proposed 76 houses and 4 flats would be accommodated on the site along with associated access roads, parking areas, landscaping, open space, paths and a shallow SUDS basin. The houses would comprise of a mix of 23 detached, 18 semi-detached and 35 terraced houses. The houses would all be two-storey. The 4 flats would be contained within 1, two-storey flatted building.

In terms of size, of the proposed 76 houses 23 would contain 4 bedrooms, 27 would contain 3 bedrooms and 26 would contain 2 bedrooms. All of the 4 flats would contain 2 bedrooms.

8 of the terraced houses, 8 of the semi-detached houses and the 4 flats would be affordable housing units. The remaining 60 houses would be private houses for sale. The

private houses would comprise of 8 different house types.

Vehicular, pedestrian and cycle access to the site would be taken by way of a new access into the site from the B6414 Main Street to the south of the site. The proposed access would continue northwards to the northern boundary of the site with residential properties being formed on either side of it to create the main residential street with a series of smaller streets being formed on either side of it. Development would be concentrated in the centre and along the northern and southern boundaries of the site with the easternmost and westernmost sides of the site being laid out as open space which would include a shallow sided SUDS detention basin being formed in the eastern part of the site and woodland strips being planted along the majority of the eastern and western boundaries of the site. A total of 15 car parking spaces to provide parking provision for the adjacent football ground would be formed along with an electric vehicle charging point in the southwest corner of the application site. Footpaths would be formed throughout the site and these would connect to the core path at the western boundary of the site and to the existing woodland strip to the east of the site as well as on to Main Street. It is also proposed that a shared use footpath would be formed along the north side of the public road of Main Street between it and the site of the proposed residential development and that a footpath would be formed along the east side of the small park adjoining the southern boundary of the site connecting the site to this park and to Main Street beyond.

The application is also supported by a number of detailed drawings and reports including a Masterplan layout which includes the northern part of the field, a Design Statement, a Drainage and SUDS Strategy Report, a Landscape Appraisal, Design Statement and Visual Impact Assessment, a Site Investigation Report, a Noise Assessment, a Transport Assessment, an Archaeology Report and a Tree Survey Report, some of which have been revised since registration of the application.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On the 6th October 2016 the Council issued a formal screening opinion to the applicant's agent. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed residential development to be the subject of an EIA.

## **DEVELOPMENT PLAN**

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 (ELLDP) 2018 together with its adopted supplementary guidance.

The purpose of the approved South East Scotland Strategic Development Plan (SESplan) is to set out the strategic planning framework to assist preparation of local development

plans. Its policies are generally not relevant for assessing individual planning applications.

Relevant ELLDP Policies are DP1: Landscape Character, DP2: Design, DP3: Housing Density, DP4: Major Development Sites, DP8: Design Standards for New Housing Areas, DP9: Development Briefs, HOU3: Affordable Housing Quota, HOU4: Affordable Housing Tenure Mix, OS3: Minimum Open Space Standard for New General Needs Housing Development, OS4: Play Space Provision in New General Needs Housing Development, CH4: Scheduled Monuments and Archaeological Sites, W3: Waste Separation and Collection, NH5: Biodiversity and Geodiversity Interests, including Nationally Protected Species, NH8: Trees and Development, NH10: Sustainable Drainage Systems, NH11: Flood Risk, NH12: Air Quality, NH13: Noise, T1: Development Location and Accessibility, T2: General Traffic Impacts, T4: Active Travel Routes and Core Paths as part of the Green Network Strategy, T31: Electric Car & Bus Charging Points, T32: Transport Infrastructure Delivery Fund and DEL1: Infrastructure and Facilities Provision.

Relevant ELLDP Proposals are PROP TT11: Elphinstone West, PROP CF1: Provision of New Sports Pitches and Changing Accommodation and PROP ED4: Tranent Cluster Education Proposals,

Also material to the determination of the application is Scottish Planning Policy: June 2014. One of the main 'Outcomes' of Scottish Planning Policy (SPP) is to create successful, sustainable places by supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places.

Scottish Planning Policy highlights that new housing developments should be integrated with public and active travel networks, such as footpaths and cycle routes, rather than encouraging dependence on the car. There should be connectivity between new and existing streets with walking and cycling networks, and allow for links into future areas of development.

A further material consideration is Scottish Government Advice given in Planning Advice Note 67: Housing Quality. Planning Advice Note 67 explains how Designing Places should be applied to new housing. In PAN 67 it is stated that the planning process has an essential role to play in ensuring that: (i) the design of new housing reflects a full understanding of its context - in terms of both its physical location and market conditions, (ii) the design of new housing reinforces local and Scottish identity, and (iii) new housing is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful attention to detailed aspects of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing should take account of the wider context and be integrated into its wider neighbourhood. The quality of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not only to setting and layout and its setting, but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

Also material to the determination of the application is the non-statutory Development Brief (TT11 Elphinstone West, Tranent) which was adopted by the Council on 30 October 2018.

## **REPRESENTATIONS**

Material to the determination of the application are the written representations received to it. A total of 12 written representations have been received, all of which raise objections to

the proposals. Copies of the written representations are contained in a shared electronic folder to which all Members of the Committee have access.

The main grounds of objection in respect of the proposed development are summarised below:

- \* The housing numbers proposed are completely out of character with the village setting and would significantly affect those already living in this traditional community;
- \* This development on a hill overlooking much of the existing village will be detrimental to the visual appearance and the setting of the village;
- \* Concerns that the expansion of Tranent and Elphinstone is destroying the character of these settlements and could lead to a reduction in countryside between these two settlements;
- \* The proposed housing is not low rise housing in keeping with the majority of homes in Elphinstone and the finishing of the houses would not be in keeping with the finishes of the village;
- \* The street plan bears no relation to the current layout of the village, it is impractical and poorly thought out on a number of levels;
- \* The proposed development will put further strain on utilities, including school and GP services and broadband provision;
- \* No new amenities are proposed to be provided for the village;
- \* No housebuilding should be allowed to take place unless and until amenities such as a shop are in place in the village and the bus service has improved;
- \* The proposed development of the field could lead to further drainage and flooding problems to neighbouring residential properties;
- \* Impacts of construction traffic through the village over a long period of time;
- \* Impacts of traffic volumes, speeds, related air pollution and a further decrease in road/pedestrian safety in Elphinstone;
- \* Impacts on road safety near to the primary school;
- \* Concerns relating to the siting of the proposed vehicular access into the proposed development being close to the entrance to the village where traffic speeds are high and close to a blind bend;
- \* Concerns that the house types proposed will not provide affordable family housing for the village;
- \* Concerns that there is no provision for 1 bedroom units which would allow ageing members of the community and young members of the community to stay in the village and free up affordable family homes within the village;
- \* Not enough usable open space or play provision proposed;
- \* Based on comments made at the community event this is only the phase 1 application and if permission is granted the phase 2 application will be quick to follow;
- \* The developers should be asked to decrease the carbon footprint of the site itself by incorporating renewable technologies in the houses, increased planting onsite, a district heating system or allotments;
- \* Inaccuracies in application drawings as they show a proposed path going through private land between 2 & 3 Waterloo Place which is land owned by the residents of Waterloo Place who have not given permission for it to be a public right of way;
- \* Assurances are sought that no trees will be removed or a footpath constructed that would lead into the area occupied by the 12 homes in Waterloo Place;
- \* Development of the land to the north of the application site (the remainder of the allocated site) may result in a loss of privacy to residents of Waterloo Place;
- \* Development of the site would impact on the wildlife which currently use the site for feeding and nesting and the developer should conduct a full assessment/survey that covers the short, medium and long term impact of a large scale development on all these species;
- \* Impacts on the privacy and amenity of neighbouring residential properties due to

overlooking from the proposed residential development and loss of light;

\* There is no mention of the refurbishment of the changing facility at the football pitch in the design statement, this should be a requirement;

\* The developers should be required to take on a number of staff/apprentices from the village to give back to the community to benefit current residents and their families;

\* Previous mining issues will have to be addressed;

\* There should be more than one access into the development for emergency purposes.

## **COMMUNITY COUNCIL COMMENTS**

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

## **PLANNING ASSESSMENT**

The primary material consideration in the determination of this application is whether or not the principle and the detail of the proposed development accords with development plan policy and other supplementary planning guidance and if not, whether there are material considerations that outweigh any conflict with the development plan and other supplementary planning guidance.

The land of the application site forms approximately half of an allocated housing site (TT11 Elphinstone West) in the ELLDP. Proposal TT11 of the ELLDP allocates the whole of the allocated site for a residential development of circa 80 homes and thus the Council recognises its potential for residential development for circa 80 homes. However, what is proposed in this current application is a total of 80 homes on only part of the overall allocated site. The applicant has submitted an indicative masterplan for the overall allocated site that demonstrates that, even with significant landscaping along the northern boundary of the overall allocated site in accordance with the Development Brief for the site, further residential development could be accommodated on the northern part of the allocated site subject to a future planning application which could therefore take the total amount of residential development across the overall site significantly above the circa 80 homes allocation. Therefore, the current application must not only be considered in isolation but in relation to the potential implication it would have in combination with future development proposals in the remainder of the allocated site to the north. It is also relevant to note that some other allocated sites of the ELLDP have seen planning permissions granted for a higher number of housing units than their site allocation and some have seen planning permissions granted for a smaller number of housing units than their site allocation.

The Council's Policy and Projects Manager has been consulted on the application and advises that the allocation of site TT11 for 80 units was based at that time on potential constraints identified early on in the local development plan preparation process including school capacities, coal mining development high risk area and the layout and massing of the existing village. However, he advises that should the delivery of 80 units across only the southern part of the allocation fit with the existing village in terms of massing and design, there should be no policy impediment to granting consent. Indeed, he advises, a higher density goes part way to fulfilling the requirement for higher densities under Policy DP3 of the ELLDP. However he cautions that a full assessment would need to be undertaken on housing numbers and the ability of the village to support further housing should a subsequent planning application be submitted on the northern part of the site at some later date. He advises that the northern part of the allocation will be reviewed through the next LDP, should the site remain undeveloped. The Policy and Projects

Manager advises that earlier masterplanning carried out when the proposal was for 90 units needs to be carried out with the revised proposal of 80 units. The indicative masterplanning of the overall site has since been revised by the applicant and this demonstrates how the proposed development could at some future date be integrated into the wider allocated site.

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

The adopted Development Brief for the site sets out guiding principles, and indicative design, to be followed, where possible. These include (i) taking site access from the B6414 and providing a shared use path between the B6414 and the application site; (ii) provision of a formal landscaped edge and gateway at the southwest corner of the site which will become the new edge to the built settlement; (iii) providing a well designed and well landscaped SUDS to create an appropriate landscape edge ; (iv) providing new landscaped edges along the east and west boundaries of the site and (v) connecting the development site to the existing core paths and other path networks in the vicinity of the site.

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

Policy DP3 of the ELLDP states that new housing sites will be expected to achieve a minimum average density of 30 dwellings per hectare (net) using a full range of housing types and sizes. This is to ensure efficient use of land and other resources and create mixed communities with a full range and choice of house types and sizes. The net density of the development proposed through this application is, at approximately 26 units per hectare, of a slightly lower density than set out in Policy DP3. However, the preamble to Policy DP3 acknowledges that on certain site there may not be opportunities to absorb the required density of development in a form that complements the townscape and landscape setting of an area. Although of a slightly lower density, the range of house types and sizes proposed would give a variation of architectural form to the development, which coupled with the orientation and layout of the buildings and the variation in roof materials, would give a degree of variety of appearance to the development. The proposed development would be of a pattern and density not out of keeping with patterns and densities of housing and other development in Elphinstone. It is also of relevance that to achieve a higher density would result in greater housing numbers which would be further at odds with the site's allocation.

The architecture of the proposed houses and flats is of a traditional pitched roof form and a relatively traditional design overall and the materials proposed are generally traditional in appearance including two different roofing colours and two different render colours. A condition can be imposed on the grant of planning permission for the proposed development to ensure that the finishing colours and mix of colours to be used respect the character and appearance of the village.

In all of this the proposal would be an appropriate residential development of the site and whilst it would bring change to the western edge of Elphinstone it would be well designed

and integrated into its landscape and settlement setting.

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

The areas of open space shown to be provided would provide sufficient, usable areas of open space for informal recreation for the proposed development, consistent with Policy OS3 of the adopted East Lothian Local Development Plan 2018.

The site is capable of accommodating all of the proposed development including vehicular and pedestrian access and amenity space without being an overdevelopment of it. The pattern and density of the proposed development would not be at odds with the existing patterns and densities of housing and other development within the village of Elphinstone.

The Council's Access Officer has been consulted on the revised details of the application and advises that he is content with the public access provision proposed. Footpath links to the east and west of the site as well as alongside the main access to the site are proposed and these will allow for pedestrian and cycle access to the wider area including the core path to the west of the site and the playing fields beyond it and to allow access into the woodland strip to the east of the site. The applicant is not proposing to carry out any new footpath works within the existing woodland strip and nor are any requested to be provided through consultation on this planning application. The application does however include a proposal to provide a hard surfaced footpath linking the southeastern end of the site through the small public park to the south of it and on to the existing footpath to the south of the park. A condition can be attached requiring details of this and other footpaths to be submitted, agreed and implemented. Subject to this control, in respect of active travel routes and core paths the proposal does not conflict with Policy T4 of the ELLDP.

In respect of landscape matters the existing mature tree cover which bounds much of the eastern boundary of the site would, in part, soften and serve to integrate the proposed development into its landscape setting, breaking up the massing of the proposed development whilst gently introducing an additional extent of urban development on to this western edge of Elphinstone. The setting of the proposed development would be further enhanced by the applicant's proposals to plant a 20 metres wide woodland strip along most of the western boundary of the site, a 10 metres wide woodland strip along the eastern boundary of the application site which would tie into the existing woodland strip along this edge and other areas of landscaping throughout the site including along the roadside frontage of the site (southern boundary) and throughout the development.

The applicant has taken into consideration a number of comments of the Landscape Projects Officer in the submission of revised drawings to incorporate enhanced landscape planting within the site and in redesigning the proposed SUDS basin to move it outwith the tree protection area of the adjacent existing woodland strip to the east and to create a much shallower design more sympathetic to its surroundings. The Landscape Projects Officer does not object to the proposed development and makes a number of recommendations for conditions to be imposed relating to matters such as the protection of existing trees during the course of development, arboricultural monitoring, the submission of planting plans, communal landscape plans, tree management measures,



revised boundary treatments and for the submission for approval of a long term woodland management plan for the proposed woodland strips. Where relevant, these matters can be made conditions of a grant of planning permission. On this consideration the proposed development is consistent with Policies DP1 and NH8 of the ELLDP.

The Council's Environmental Health Service Manager raises no objection to the proposed development, satisfied that it would not result in harm to the amenity of any neighbouring land use. He doesn't raise any concerns in relation to noise or air quality matters. The proposals therefore comply with Policies NH12 and NH13 of the ELLDP.

In relation to considerations of contaminated land issues, the Council's Environmental Health Service Manager advises that he has considered the Site Investigation Report submitted by the applicant and is satisfied that the investigation and assessments carried out have identified no risk from contamination on the site to either human health (future site users) or the water environment and as such he confirms that no remedial measures are required in this regard. He advises that the gas monitoring and subsequent risk assessment carried out by the applicants consultants has shown that gas protection measures will be required for a small area on the western boundary of the site. Similarly Stage 1 Radon protection measures will be required for any housing development erected in the northwestern part of the site. To this end he advises that a Remedial Strategy detailing the exact gas prevention measures (gas & radon) to be carried out on the site as well as the form of the verification reporting to be undertaken be submitted to and approved by the Planning Authority. This requirement can be secured through a condition attached to a grant of planning permission for the proposed development. The Council's Environmental Health Service Manager has no further comments on the proposed development.

The Council's Road Services have considered the details of the application and raise no objection to the proposed development, being satisfied that it could be accessed safely and would not lead to a road or pedestrian safety hazard. They raise no objection to the principles of layout of the proposed development, of the site access from the B6414 classified public road of Main Street, of parking provision or of the likely impacts of additional traffic generation on the existing road network. The details of layout of the proposed development, of the site access from the B6414 classified public road of Main Street and of parking provision are all consistent with the adopted Development Brief.

Road Services recommend that the following requirements be met through a conditional grant of planning permission for proposed development:

\* Prior to occupation of the first house, a 'gateway' feature designed to slow traffic on the B6414 at the southwestern site boundary and incorporating a raised table at the site entrance is required. A shared use path (3m wide) is required on the north side of the B6414 as per the Design Brief, and a further crossing point of the B6414 should be installed in the vicinity of the school. A Road Safety Audit of the proposals is required, prior to approval by the Roads Authority.

\* All roads and paths shall conform to ELC Standards for Development Roads (as an advisory note Road Services note that the applicant should aim for all paths and footways in particular to also conform to Roads for All standards – Transport Scotland's good practice guide for inclusive design in particular in relation to the maximum longitudinal gradients of them).

\* Driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but

not the length) provided they are no greater than 150mm in height above the adjacent driveway surface.

\* Vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing. Within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres.

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

\* Cycle parking for dwellings without private back garden with a gate (e.g. flats/mid-terraces), shall be included at a rate of 1 space per dwelling. This shall be in the form of a lockable room or shed.

\* All path and footway connections from a zone under construction to the existing settlement shall be constructed to an adoptable standard before the occupation of any units in that particular zone. Sympathetic and appropriate links to external path network are required i.e. the woodland path to the east and the core path to the west. The path to the southwest which links through the existing park to Main Street should be at least 2m-wide, hard-surfaced and lit.

\* Notwithstanding that detailed on the site plan at least one electric vehicle charging point shall be provided in proximity to the path to the football ground. Two associated parking spaces may be required. Prior to the commencement of development details of the electric vehicle charging point shall be discussed with and approved in writing by the Planning Authority, and may be considered for adoption. The details to be submitted shall include a timetable for provision, and a proposal for future maintenance. Development shall thereafter be carried out in accordance with the details so approved and shall be retained unless otherwise approved in writing by the Planning Authority.

\* Prior to commencement of development, a Factoring Plan should be submitted clearly indicating the different responsibilities for long term maintenance including: private and shared private areas, factored areas, and prospectively adoptable roads.

\* Prior to first occupation, a Travel Information Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority. The Travel Information Pack will include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents.

\* A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including parking, routes to/from site and delivery times) and shall include hours of construction work.

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

As an advisory note Road Services state that all works within or affecting the public road including works on the footway or verge must be authorised in advance by this Council as Roads Authority. This advisory note has been forwarded to the applicant's agent.

With the imposition of conditions to cover these recommendations of Roads Services, the proposed development does not conflict with Policies T1, T2 or T31 of the ELLDP.

The Council's Waste Services raise no objections to the proposed development. They comment that residents will be responsible for presenting containers at the kerbsides of the main roads throughout the development as Waste Services will not collect these from off street parking areas. The applicant has provided swept path analysis drawings which demonstrate to the satisfaction of the Council's Road Services that large vehicles including waste service vehicles could satisfactorily negotiate the proposed development. The proposal complies with Policy W3 of the ELLDP.

Details of the SUDS and other drainage details have been submitted with this application. These details have been revised during the course of the application following consultation with the Scottish Environmental Protection Agency (SEPA), the Council's Team Manager for Structures, Flooding & Street Lighting and the Council's Landscape Projects Officer. The SUDS basin now proposed is of a shallower design covering a larger area than originally proposed. Drainage provision has been amended and a revised Drainage Strategy Report has been submitted.

SEPA raise no objections to the proposed development and nor do they request any conditions be imposed in the event that planning permission is granted. They recommend that the applicants drainage plans be docketed if planning permission is to be granted. They otherwise advise that SEPA does not provide advice on the water quantity aspect of SUDS or surface water drainage and that comments from Scottish Water, where appropriate, the Local Authority Roads Department and the Local Authority Flood Prevention Unit should be sought in terms of water quantity/flooding and adoption issues.

The Council's Team Manager for Structures, Flooding & Street Lighting also confirms that he is now satisfied with the revised proposals and clarifications on drainage matters provided in revised details submitted. He therefore raises no objections on flood risk grounds. The Council's Team Manager for Structures, Flooding & Street Lighting raises no objections to the siting and design of the SUDS basin. He advises that it would be prudent for a condition to be imposed stating that no construction works can begin prior to the Council receiving Scottish Water's Technical Approval of the design of the SUDS basin. This matter can be secured through a condition on a grant of planning permission. The proposals are therefore consistent with Policies NH10 and NH11 of ELLDP.

On all of these foregoing findings on matters of housing numbers, density, design, layout, road, pedestrian, cyclist and other transportation design considerations, open space, landscaping and amenity, and subject to the imposition of conditions, the proposed development is not inconsistent with Proposal TT11 or Policies DP1, DP2, DP3, DP4, DP8, DP9, OS3, OS4, NH8, NH10, NH11, NH12, W3, T1, T2, T4 or T31 of the ELLDP, the Council's adopted development brief for the site or the Scottish Government Policy Statement entitled "Designing Streets".

Policy NH5 of the adopted East Lothian Local Plan 2008 generally presumes against new development that would have an unacceptable impact on the biodiversity of an area. The Council's Biodiversity Officer raises no objection to this application, satisfied the proposal would not have a harmful impact on existing wildlife or on the biodiversity of the area.

The Council's Heritage Officer advises that although there are no known buried archaeological remains located within the application site, there are a number of known remains, including Scheduled Monuments, in the immediate vicinity. He advises that the area of the application site does not appear to have been subject to any development

previously which suggests that any remains present may survive and be impacted upon by the proposed development. Because of this the Heritage Officer recommends that if planning permission is to be granted for this proposal, a programme of archaeological works (Evaluation by trial trenching) should be carried out prior to the commencement of development. This requirement can be secured through a condition attached to a grant of planning permission in for the proposed development. This approach is consistent with Scottish Planning Policy: June 2014, Planning Advice Note 2/2011: Planning and Archaeology and with Policy CH4 of the ELLDP.

As part of the site is within a Coal Mining Development High Risk Area The Coal Authority has been consulted on the application. The Coal Authority initially objected to the application on the grounds of lack of information relating to potential coal mining features and hazards. In response to that objection the applicant submitted a Site Investigation Report in support of the application which details investigatory works carried out at the application site and an additional parcel of land to the north. The report indicates that there are shallow coal mine workings beneath the western portion of the site. It concludes that in parts of the site these workings pose a risk to surface stability and require remediation by means of drilling and grouting prior to the commencement of development. The Coal Authority advise that they concur with the recommendations of the Site Investigation Report, that coal mining legacy poses a risk to the proposed development and that remedial measures are necessary to ensure the safety and stability of the proposed development. The Coal Authority confirm that they therefore withdraw their objection to the proposed development subject to a condition being imposed on a grant of planning permission to ensure a scheme of proposed remedial works for past shallow coal workings be submitted to and approved in writing by the Planning Authority and thereafter implemented prior to the commencement of development. This can be required by a condition of a grant of planning permission.

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be imposed on relevant applications for planning permission. Such a condition should be imposed on a grant of planning permission for this proposed development.

Consideration must then be given to the potential impact of the proposed development on the infrastructure of the area. Policy DEL1 of the ELLDP stipulates that new housing will only be permitted where appropriate provision for infrastructure, required as a consequence of the development, is made. Proposal TT11 of the ELLDP stipulates that any development on the site is subject to the mitigation of any development related impacts, including on a proportionate basis for any cumulative impacts with other proposals including on the transport network, on education and community facilities, and on air quality as appropriate.

The East Lothian Council Health and Social Care Partnership have been consulted on the application but have not provided any comments on it nor have they provided any requirement for capital contributions for infrastructure as a result of the proposals. Although they have not commented directly on this application, the East Lothian Council Health and Social Care Partnership will have taken the allocation of this site for circa 80 residential units into account in planning for health care at the time of its allocation in the ELLDP.

Scottish Water have been consulted on the proposals. They raise no objection and have provided comments relevant to servicing the proposed development which have been

forwarded to the applicants for their information. It is the responsibility of the developer to make separate application to Scottish Water for permission to connect to the public waste water and water networks.

PROP CF1: Provision of New Sports Pitches and Changing Accommodation of the ELLDP requires development proposals for 5 or more homes to make provision for the delivery of new sports pitches and changing accommodation in the relevant contribution zone as set out in Appendix 1 of the Plan and in the Supplementary Guidance: Developer Contributions Framework. The new facilities to be provided, and the sites within which they are to be delivered are identified in Part A of PROP CF1 and include at the site of PROP TT11 provision for turning and parking areas for the existing playing field and contribution towards refurbishment of the existing changing pavilion located at the playing field.

Provision for turning and parking areas to serve the existing playing field, along with a proposed electric vehicle charging point, are proposed to be provided within the application site, close to the southwest corner of the application site along with footpath provision to the adjacent playing fields all to allow convenient access to the playing fields. A timetable for the provision of this parking and turning facility can be secured by way of a condition on a grant of planning permission. The Council's Team Manager – Active Business Unit raises no objections to this proposed provision and in relation to developers contributions required towards refurbishment of the existing changing pavilion at the playing field, advises that a contribution of £306.85 per dwelling (a total of £24,548.00 for 80 residential units) is required for this proposal. The required payment of a financial contribution of a total of £24,548.00 towards the refurbishment of the existing changing pavilion at the Elphinstone playing field can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicants confirm in writing that they are willing to enter into such an agreement.

Regarding formal play provision, the Council's Principal Amenity Officer advises that it would be more beneficial to enhance the existing community facility at the playing fields adjacent to the application site with equipped play facilities rather than provide a new facility within the application site. He advises that a contribution of £549 per residential unit, which would equate to a total contribution of £43,920 at current rates, should be secured from the applicant for the provision of equipped play facilities on the existing playing field site to the west of the application site. The Council's Principal Amenity Officer is satisfied that adequate space would be available for this without prejudicing the enhancement of the existing pavilion or the ongoing use of the sports pitch. The required contribution can be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal Agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing this appropriate developer contribution the proposal is consistent with Policy OS4 of the ELLDP. The applicants have confirmed in writing that they are willing to enter into such an agreement.

Policy T32 of the ELLDP specifically relates to the package of transportation interventions to mitigate the cumulative impact of development on the transport network which have been identified by the Council in consultation with Transport Scotland. In line with Policy DEL1, relevant developments are required to contribute to the delivery of these transportation interventions, on a proportionate, cumulative pro-rata basis, as set out in Developer Contributions Framework (DCF) Supplementary Guidance.

The Council's Planning Obligations Officer advises that for planning applications submitted before 29 May 2018 (such as this application) transportation developer contributions will be based on the lower of the 2016 or 2018 DCF levels of contribution for each transport proposals. He advises that the 2016 draft DCF sought no transportation contributions from the Elphinstone zone and therefore no transportation contributions towards the 7 transport interventions are required to be sought from this proposal.

The Council's Deputy Chief Executive, Resources and People Services informs that the application site is located within the school catchment areas of Elphinstone Primary School and Ross High School, Tranent.

He advises that Elphinstone Primary School and Ross High School, Tranent do not have sufficient capacity to accommodate children that could arise from the proposed development. Thus he would object to the application on the grounds of lack of permanent capacity at those schools unless the applicant makes a financial contribution to the Council of £5,875 per housing unit towards the provision of additional school accommodation at Elphinstone Primary School and a contribution of £4,728 per housing unit towards the provision of additional school accommodation at Ross High School.

The required payment of a financial contribution of a total of £848,240 towards the provision of additional accommodation at Elphinstone Primary School and Ross High School, Tranent can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy ED1 of the ELLDP, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding necessary school capacity. The applicants confirm in writing that they are willing to enter into such an agreement.

The Council's Deputy Chief Executive, Resources and People Services additionally requires that the 80 housing units be phased over a period of at least three years. This is to ensure sufficient education capacity can be provided for the pupil product of the development. This is a matter which can be controlled by way of a condition on a grant of planning permission.

The Council's Economic Development & Strategic Investment Manager advises that in accordance with the Council's Affordable Housing Policy, 25% of the proposed 80 residential units require to be affordable housing units. The affordable housing component of the proposed housing development is 20 units. The Economic Development & Strategic Investment Manager advises that the mix, size and location of the 20 affordable units to be provided on the site is acceptable. The affordable housing is sufficiently integrated into the overall development. The terms for the provision of this affordable housing requirement can be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant is willing to do, the proposal would be consistent with Policies HOU3 and HOU4 of the ELLDP.

In summary, although the number of units proposed is significantly higher than the pro rata number that would be expected on this part of the site, the site is capable of accommodating the proposed development including vehicular and pedestrian access and

amenity space. A grant of planning permission for the proposed development in the context of the site being part of housing allocation PROP TT11 of the East Lothian Local Development Plan, and in that its impacts in respect of amenity and technical considerations are acceptable in themselves, or can be mitigated through the appropriate use of planning conditions and necessary developer contributions, would not be inconsistent with Scottish Planning Policy: June 2014, with the relevant policies of the East Lothian Local Development Plan 2018 or with its adopted supplementary guidance.

## **RECOMMENDATION**

It is recommended that planning permission be granted subject to:

1. The undernoted conditions.
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:
  - (i) a financial contribution to the Council of £848,240 towards the provision of additional accommodation at Elphinstone Primary School and Ross High School, Tranent;
  - (ii) the provision of 20 affordable housing units within the application site;
  - (iii) a financial contribution to the Council of £24,548 towards the refurbishment of the existing changing pavilion at the Elphinstone Playing Field;
  - (iv) a financial contribution to the Council of £43,920 towards the provision of equipped play provision and/or some other enhancement of the Elphinstone Playing Field.
3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient school capacity at Elphinstone Primary School and at Ross High School, Tranent, a lack of provision of affordable housing, a lack of formal play provision and a lack of sports infrastructure improvements contrary to, as applicable, Policies DEL1, OS4, HOU3, HOU4 and Proposals ED4 and CF1 of the adopted East Lothian Local Development Plan.

- 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 buildings shown in relation to the finished ground and floor levels on the site.

Reason:

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

- 2 No development shall take place on the proposed site until the applicant has, through the employ of an archaeologist or archaeological organisation, undertaken and reported upon a programme of archaeological work (Evaluation by trial trenching) in accordance with a written scheme of investigation which the application will submit to and have approved in advance by the Planning Authority.

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 3 Prior to the commencement of development a delivery schedule and phasing plans that establishes the phasing and timing programme for the proposed development shall be submitted to and approved in advance by the Planning Authority. It shall include the phasing and timing for the provision of footpaths/cycleways and external works such as offsite path links. These path links shall include:

(i) Three path connections from the west boundary of the site to connect to the core path to the west of the site;

(ii) Two path connections from the east boundary of the site to connect to the woodland strip to the east of the site;

(iii) A 2 metres wide, hard-surfaced, lit (street lighting) footpath suitable for walking and cycling to be formed from the southeast corner of the application site through the existing park to the south of it and connecting on to Main Street;

It must also include for public road links, including paths, to local services, schools and the public road network. It shall further include the provision of the 15 car parking spaces and associated electric vehicle charging point to serve the playing field, drainage infrastructure, landscaping and open space. The details to be submitted shall also include construction phasing plans.

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

Reason:

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

- 4 Prior to the commencement of development a Remediation Strategy detailing the exact gas prevention measures (gas & radon) and detailing and quantifying any works to be undertaken in order to reduce the risks to acceptable levels shall be submitted to and approved by the Planning Authority.. Any identified remediation measures shall thereafter be carried out.

Should remedial works be required then, prior to any residential units being occupied, a Validation Report shall be submitted to and be approved by the Planning Authority confirming that the works have been carried out in accordance with the Remediation Strategy.

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

Reason:

To ensure that the site is clear of contamination and that remediation works are acceptable prior to the occupation of any of the residential units.

- 5 Unless otherwise approved in writing by the Planning Authority:

(a) Housing completions in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion rates:

Year 2020/21 - 20 residential units

Year 2021/22 - 30 residential units

Year 2022/23 - 30 residential units

(b) If fewer than the specified number of residential units is completed in any one year then those shall be completed instead at Year 2023/24 or beyond and not added to the subsequent year.



Reason:

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

- 6 Prior to the commencement of development, a scheme of remedial works to treat past shallow coal mine workings shall be submitted to and approved in writing by the Planning Authority and thereafter shall be fully implemented as so approved.

Reason:

To ensure that the site is clear of coal mining features and hazards prior to the occupation of any of the buildings.

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

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

Thereafter, the approved details shall be implemented as approved.

Reason:

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

- 8 Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure for them, where feasible and appropriate in design terms. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

- 9 Prior to their erection, details, including their size, form, position, appearance and colour(s), of all substations and gas governors to serve the development hereby approved shall be submitted to and approved in advance in writing by the Planning Authority, and thereafter any substations and gas governors shall accord with the details so approved.

Reason:

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

- 10 Prior to the commencement of development, details, including a timetable for their implementation, showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

(i) No residential unit hereby approved shall be occupied unless and until (i) a gateway feature is installed at the western end of the south boundary of the site, (ii) a raised table is incorporated at the site entrance, (iii) a 3 metres wide, lit (street lighting) shared use path is provided on the north side of the B6414 along the full length of this site boundary to tie into the existing footway and (iv) a suitable crossing of the B6414 is provided in the vicinity of the primary school. Details of the proposed gateway feature, the raised table, the shared use path and the crossing shall be submitted for approval by the planning authority along with a Road Safety Audit of the proposals. These measures shall be implemented in accordance with the details as approved by the planning Authority.

(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. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface.

(iii) Vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing. Within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres.

(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;

All roads and paths shall conform to the Councils Standards for Development Roads.

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

Reason:

- 11 In the interests of road and pedestrian safety.  
Prior to the occupation of the last house or flat hereby approved, the proposed access roads, parking spaces, and footpaths shall have been constructed on site in accordance with the docketed drawings.

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 flats and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

- 13 In the interests of road safety.  
Notwithstanding that detailed on the drawings docketed to this planning permission at least one electric vehicle charging point shall be provided at the parking area which is to serve the playing field adjacent to the site. Prior to the commencement of development details of the electric vehicle charging point(s) shall be submitted to and approved in writing by the Planning Authority. The details to be submitted shall include a timetable for provision. Development shall thereafter be carried out in accordance with the details to approved and shall be retained unless other approved in writing by the Planning Authority.

Reason:

- 14 In the interests of sustainability.  
Prior to the occupation of any of the residential units hereby approved a Green Travel Plan shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved.

The Green Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan and details of how it will be distributed to residents.

Thereafter, the Green Travel Plan shall be implemented in accordance with the details so approved.

Reason:

- 15 In the interests of ensuring sustainable travel patterns in respect of the residential development.  
Prior to the commencement of development, a Construction Method Statement which sets out how the impact of construction activity on the safety and amenity of the area will be mitigated shall be submitted to and approved by the Planning Authority.

The Construction Method Statement shall include details of:

- \* Mitigation measures to control noise, dust, construction traffic (including routes to/from site and delivery times).
- \* Hours of construction work
- \* Routes for construction traffic
- \* Wheel washing facilities.

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

Reason:

- 16 To retain control of the operation of construction in the interest of environmental and residential amenity.  
Prior to the occupation of any of the flats hereby approved bin storage facilities and cycle storage facilities shall have been formed and made available for use. The cycle parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed in accordance with

details to be submitted to and approved in writing by the Planning Authority. Thereafter, the storage facilities shall be retained in use as bin and cycle storage areas.

Reason:

To ensure the provision of adequate bin and cycle storage in the interest of the residential amenity of the future occupants of the flats hereby approved and the visual amenity of the locality.

- 17 Notwithstanding that which is stated on the drawings docketed to this planning permission a detailed specification and samples of all external finishes of the houses, flats, garages and boundary treatments hereby approved shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development.

Notwithstanding that which is detailed on boundary treatment drawings docketed to this planning permission the southernmost boundary treatment of the rear gardens of plots 67-80 shall be a 1.8 metres high reconstituted stone boundary wall and not a 1.8 metres high timber fence as detailed in the drawings.

The external finishes of the houses and flats 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 and flats, 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, flats, garages and boundary treatments shall conform to the details so approved.

Reason:

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

- 18 A timetable for the provision of the erection of the boundary enclosures for the gardens of the houses and flats hereby approved shall be submitted to and approved in advance by the Planning Authority and development 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 the boundary enclosures in the interest of safeguarding the privacy and amenity of future residents of the development and residential properties nearby.

- 19 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of: the height and slopes of any mounding on or re-contouring of the site including SUDS basin/ponds details; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. Non-thorn shrub species should be located adjacent to pedestrian areas. 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. Specific planting details shall include hedges to front gardens. The scheme shall include a timetable for implementation of landscaping, and this scheme shall show that the structural landscape planting (proposed woodland planting on east and west boundaries) shall be implemented within 1 year of the commencement of development and shall include a tree protection and maintenance plan to safeguard new structural tree planting during the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the details so approved, including the timetable for implementation. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority. All existing and new planting comprised in the scheme of landscaping shall be retained and maintained unless the Planning Authority gives written consent to any variation.

The structural woodland planting to be provided along the east and west boundaries of the site shall be managed in accordance with a long term woodland management plan to be submitted to and approved by the Planning Authority prior to the commencement of development. The woodland management plan shall include both short and long term management objectives and shall include a program of thinning.

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.
- 20 Prior to the commencement of development, a communal landscape plan clearly identifying all landscape factored areas shall be submitted to and approved by the Planning Authority. The plan shall be scaled (minimum 1:250) and shall include a colour coded key clearly identifying the boundaries of house plots, all landscape features such as woodland, meadows, trees and tree tag numbers, hedges, lawns, shrubs and SUDs.

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

Reason:

- To ensure the retention and maintenance of landscaping on the site in the interest of amenity.
- 21 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837\_2012 "Trees in relation to design, demolition and construction" has been installed, approved and confirmed in writing by the Planning Authority. The fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing must be as indicated on a tree protection plan to be submitted to and approved by the Planning Authority in advance of the erection of the fencing. The fencing as approved shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and approved in writing by the Planning Authority.

All weather notices shall be erected on said fencing with words such as "Construction exclusion zone - Keep out". Within the fenced off areas creating the Construction Exclusion Zones the following prohibitions must apply:-

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

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

Reason

- In order to protect retained hedgerows and trees from damage.
- 22 No development shall take place on site until a person who, through relevant education, training and experience, has gained recognised qualifications and expertise in the field of trees in relation to construction, has been employed by the developer to monitor any works in close proximity of trees on the site including the installation of the 'Terram' cellular confinement system and the installation of the tree protection fencing. All tree work should be carried out in accordance with BS3998: 1989 'Recommendations for Tree Work' and must be approved in writing by the Planning Authority before work is carried out.

Reason:

To ensure the retention and maintenance of the trees adjacent to the site which are an important landscape feature of the area.

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



**REPORT TO:** Planning Committee  
**MEETING DATE:** Wednesday 18 December 2019  
**BY:** Depute Chief Executive (Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

**5**

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*Note - this application was called off the Scheme of Delegation List by Councillor Williamson for the following reason: the proposed location is in a sensitive part of the Conservation Area. The Planning Committee is best placed to determine this application.*

Application No. **19/00933/P**  
Proposal Installation of BT cabinet  
Location **Grass Area Opposite To 5 Eskside West  
Eskside West  
Musselburgh  
East Lothian**

Applicant BT Openreach  
Per Harlequin Group

**RECOMMENDATION** Consent Granted

### **PLANNING ASSESSMENT**

The site to which this application relates to is a grass verge on the western bank of the River Esk at Eskside West, Musselburgh. It is located within the Musselburgh Conservation Area as well as the Battle of Pinkie Historic Battlefield.

Planning permission is sought for the erection of a BT cabinet, which would be green in colour and would measure 1.6 metres high by 0.45 metres deep by 1.2 metres wide.

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 relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Policies DCN1 (Digital Communications Networks), CH2 (Development Affecting Conservation Areas), CH5 (Battlefields) and DP2 (Design) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Material to the determination of the application is the Scottish Government's policy on supporting digital connectivity given in Scottish Planning Policy: June 2014 and Planning Advice Note 62: Radio Telecommunications.

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

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

In paragraph 299 of Scottish Planning Policy it is stated that all components of equipment should be considered together and designed and positioned as sensitively as possible, though technical requirements and constraints may limit the possibilities. Development should not physically obstruct aerodrome operations, technical sites or existing transmitter/receiver facilities. The cumulative visual effects of equipment should be taken into account when assessing new proposals.

Policy DCN1 of the adopted East Lothian Local Development Plan 2018 reflects this requirement.

Planning Advice Note 62 provides supplementary advice on the process of site selection and design for telecommunications development and illustrates how the equipment can be sensitively installed.

One letter of objection has been received in relation to the application. Objections relate to the impact on the Musselburgh Conservation Area, the scale of the development being out of keeping and impact on Flood Risk. It is also suggested that the applicant reconsider their proposals to provide 'one all-purpose box'.

One letter of representation has also been submitted which states that there is no objection in principle to the proposal. However concerns are raised with regards to the design of the cabinet and its impact on the character and appearance of the conservation area and the design of the cabinet being different to the two adjacent cabinets. Concerns are also raised with regard to the scale of the cabinet relative to the existing cabinets on site and the representee considers that the proposal is not in accordance with the development plan.



In its proposed position, the proposed cabinet would be seen in the context of existing street furniture such as the existing telecoms boxes, street lighting column and an electricity supply pole. As such, it would not constitute an overly prominent feature when viewed from public places. Furthermore, in its positioning off the footway and within a large open grass verge, it would not lead to a cluttered appearance when viewed from the surrounding street.

Overall, by virtue its small size, massing, height, form, and appearance, including its green colouring, and by virtue of its positioning, the proposed cabinet would not appear as a harmfully obtrusive or incongruous feature within the streetscape and would not have an adverse effect on the character and appearance of the street or the Musselburgh Conservation Area.

The proposed cabinet would be positioned on the western side of the grass verge and approximately 1.5 metres away from the public footpath at Eskside West, and some 3 metres from the edge of the public road. Therefore, as a consequence of its set back position there would remain sufficient space to accommodate movement within the existing pedestrian footway.

Given the site's location within the Battle of Pinkie Historic Battlefield, Historic environment Scotland has been consulted on the proposal. They have responded to confirm that they have no comments to make on the proposal. As such, no objection has been raised. The proposal would therefore not detrimentally impact on the historic character or significance of the Battle of Pinkie Historic Battlefield.

The Council's Road Services raises no objection to the proposed cabinet, being satisfied that it would not constitute a risk to road or pedestrian safety.

The Council's Environmental Protection Manager has also responded to consultation to stat that they do not have comments to make on this proposal. As such, no objection has been made.

The Council's Structures, Flooding & Street Lighting Manager raises no objection to the proposal, being satisfied that the proposed cabinet would not lead to increased flood risk in the area and would not prejudice a future possible Musselburgh Flood Prevention Scheme.

The proposed development would not harm the amenity of any neighbouring land use, including nearby residential properties.

## **RECOMMENDATION**

It is recommended that planning permission be granted subject to:

### **CONDITIONS:**

- 1 None.

*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)*