

REPORT TO: Planning Committee

MEETING DATE: 19 May 2020

BY: Head of Development

SUBJECT: Planning Application No. 15/00537/PPM - Planning permission in principle for residential development with associated educational and community facilities and open space at Land located to the South and East of Wallyford and at Dolphingstone, East Lothian

1 PURPOSE

- 1.1 To secure a final determination of planning application 15/00537/PPM.

2 RECOMMENDATIONS

- 2.1 The Committee agree to now grant planning permission in principle for the development proposed in planning application 15/00537/PPM subject to:

1. The conditions set out in Appendix D; and
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to:

(i) Secure from the applicant a financial contribution to the Council of £7,321,200 towards the provision of additional accommodation at the new Wallyford Primary and Nursery School and towards the provision of a new Musselburgh Secondary School.

(ii) Secure from the applicant the provision of 25% of the final approved number of residential units within the application site as affordable residential units or if it can be demonstrated to the Council that this, or the off-site provision of 25% of the final approved number of residential units as affordable units is not practicable, to secure from the applicant a commuted sum payment to the Council in lieu of such an on or off-site provision;

(iii) Secure from the applicant a financial contribution to the Council for £428,540 towards the provision of road improvements to Old Craighall,

Salters Road Interchange and Bankton Interchange, Musselburgh and Tranent town centre improvements and towards the development of an active travel corridor; and

(iv) Secure from the applicant a financial contribution of £186,496 towards rail networks improvements within East Lothian.

- 2.2 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 Wallyford Primary and Nursery School and Musselburgh Grammar School, the lack of provision of affordable housing, and the lack of road and transport infrastructure improvements, contrary to Policies DEL1 and, as applicable Proposals MH9 and MH10 and Policies ED1, HOU3, HOU4, and T32 of the adopted East Lothian Local Development Plan 2018.

3 BACKGROUND

- 3.1 At their meeting on 28 June 2017 the Committee considered planning application 15/00537/PPM. Through that application planning permission in principle is sought for residential development with associated educational and community facilities and open space at land located to the South and East of Wallyford and at Dolphingstone. The site is adjacent to, and includes a small part of, the Wallyford expansion site that is the subject of planning permission in principle 14/00903/PPM. A copy of the Report of Handling for application 15/00537/PPM is attached as Appendix A. A copy of the Extract from the Minutes of that Meeting is attached as Appendix B.
- 3.2 The Planning Committee agreed, contrary to officer recommendation, to grant planning permission in principle subject to:
1. A Section 75 Agreement in relation to developer contributions, to be determined by the Service Manager-Planning, in consultation with the Convener and local members;
 2. A separate legal agreement between the applicant and Network Rail to secure from the applicant to Network Rail a financial contribution of £457,674;
 3. Conditions to the grant of planning permission in principle to be determined by the Service Manager-Planning, in consultation with the Convener and local members; and
 4. Application 14/000903/PPM be part revoked in respect of the land for the secondary school.

- 3.3 In October 2017 heads of terms for the legal agreement and conditions to the grant of planning permission in principle were determined by the Service Manager-Planning, in consultation with the Convener and local members. A copy of the agreed conditions and heads of terms for the legal agreement are attached as Appendix C.
- 3.4 There has subsequently been considerable discussions with the applicant and their representatives over the terms on which planning permission in principle 15/00537/PPM should be granted. In August 2019 the then Service Manager for Planning prepared revised conditions. However these were not agreed with the Convener and local members.
- 3.5 The Section 75 Agreement has not been concluded. A separate legal agreement has not been entered into between the applicant and Network Rail to secure from the applicant a financial contribution to Network Rail of £457,674. Moreover, application 14/000903/PPM has not been part revoked in respect of the land for the secondary school. Therefore planning permission in principle 15/00537/PPM has not granted.
- 3.6 The length of time that has elapsed since the Committee took their decision on the application means that the contribution levels that were previously agreed to form part of the heads of terms are no longer correct. The Council's Service Manager for Legal and Procurement advises that there is no legal impediment to the Planning Committee now reconsidering the heads of terms and conditions that were determined by the Service Manager-Planning, in consultation with the Convener and local members back in October 2017. He also advises that the Planning Committee can also reconsider the matter of the contributions to be secured towards rail improvements in East Lothian and whether or not it is still necessary to part revoke planning permission in principle 14/000903/PPM in respect of the land for the secondary school.
- 3.7 When planning application 15/00537/PPM was determined by the Planning Committee in June 2017 the Council had received a total of three written representations, all of which made objection to the principle of the proposed development. A copy of the written objections were contained in a shared electronic folder to which all Members of the Committee had access, and those representations were taken into account by the Planning Committee in reaching their decision on the application.
- 3.8 In August 2017 a further objection to the application was received. It was submitted on behalf of Ashfield Commercial Properties Ltd, who were the owners of the land at Goshen Farm, Musselburgh. It raised the following concerns:
- The Report to Committee contains a number of errors and omissions material to the consideration of the application;
 - The Report failed to properly reflect the timetable for delivery of the additional 600-800 houses. This impacted on the weight given to Development Plan policy, in particular SESPlan policy 7.

- The Council's Interim Guidance has been erroneously disregarded in the Report;
- The Report omitted mention of our clients' LDP examination representations on sites MH 10 and MH 11 and presented an inaccurate position to members on the number and nature of objections to the application; and
- the application will prejudice the LDP examination by predetermining where largescale development should take place.

- 3.9 At that time the representor was advised that their objection was out of time and could not therefore be taken into account in the determination of this application. However now that the application is back before the Planning Committee for a final determination, the Council's Service Manager for Legal and Procurement advises that this representation should be taken into account in the final determination of the application.
- 3.10 The Interim Guidance referred to in the representation is not a material consideration in the determination of this planning application, as the Local Development Plan has been adopted and through the 2019 Housing Land Audit, the Council is able to demonstrate a supply of current effective housing land well in excess of 5 years. East Lothian Council adopted its Local Development Plan on 27 September 2018 ("ELLDP"). The ELLDP sets out a development strategy for the future of East Lothian to 2024 and beyond, as well as a detailed policy framework for guiding development. It sets out the Council's settled view of where new development should and should not occur, including housing, education, economic and retail development, new transport links, and other infrastructure. The application site is an allocation of the plan which provides part of the plan's strategy and housing land supply.
- 3.11 The application site is primarily an allocated housing site (MH10: Land at Dolphingstone) in the ELLDP. Proposal MH10 of the ELLDP allocates the site for a development including circa 600 homes. The proposal consists of 600 houses additional to the 1450 already approved for the adjacent Wallyford expansion site by planning permission in principle 14/00903/PPM.
- 3.12 A masterplan has been submitted with the planning application. The submitted masterplan generally conforms to the Council's Development Brief for the site.
- 3.13 The Council has undertaken a Habitats Regulations Appraisal (HRA), which concludes that there are not likely to be significant effects upon the Firth of Forth Special Protection Area (SPA). Scottish Natural Heritage agree with the findings of the HRA, advising that an appropriate assessment is not necessary. They raise no objection to the principle of the proposed development, being satisfied that it would not have an unacceptable impact on ecology, habitats or species. The Council's Biodiversity Officer raises no objection to the principle of the proposed development.

- 3.14 On all of the above considerations the proposal is consistent with Proposal MH10 of the ELLDP. The proposal is also consistent with Policy OS3: Minimum Open Space Standard for New General Needs Housing Development, Policy OS4: Play Space Provision in New General Needs Housing Development, Policy OS5: Allotment Provision, Policy T1: Development Location and Accessibility, Policy T2: General Transport Impact, PROP T10: Safeguarding of Land for Platform lengthening – Musselburgh, Prestonpans, Longniddry, Drem and Dunbar, PROP T15: Old Craighall Junction Improvements, PROP T17: A1 Interchange Improvements (Salters Road, Dolphinstone Interchange, Bankton Interchange and Gladsmuir), PROP T21: Musselburgh Urban Traffic Control System, PROP T27: Tranent Town Centre One-Way System, Policy T31: Electric Car & Bus Charging Points, Policy T32: Transport Infrastructure Delivery Fund, Policy NH10: Sustainable Urban Drainage Systems, Policy NH11: Flood Risk, Policy NH13: Noise, Policy CH4: Scheduled Monuments and Archaeological Sites, Policy DP1: Landscape Character, Policy DP2: Design, Policy DP3: Housing Density, Policy DP4: Major Development Sites, Policy DP8: Design Standards for New Housing Areas, Policy DP9: Development Briefs and Policy DEL1: Infrastructure and Facilities Provision of the ELLDP.
- 3.15 Policy T32 of the ELLDP specifically relates to the package of transportation interventions to mitigate the cumulative impact of development on the transport network which have been identified by the Council in consultation with Transport Scotland. In line with Policy DEL1, relevant developments are required to contribute to the delivery of these transportation interventions, on a proportionate, cumulative pro-rata basis, as set out in Developer Contributions Framework Supplementary Guidance.
- 3.16 The Council's Planning Obligations Officer advises that the financial contribution to the Council towards the provision of road improvements to Salters Road Interchange and Bankton Interchange, Musselburgh and Tranent town centre improvements and towards the development of an active travel corridor now requires to be £428,540.
- 3.17 The Planning Obligations Officer further advises that a financial contribution of £186,496 should be secured towards the rail networks improvements within East Lothian.
- 3.18 The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £615,036.
- 3.19 The total developer contributions towards the transportation interventions of £615,036 (indexed linked) can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicants

have confirmed in writing that they are willing to enter into such an agreement.

- 3.20 Network Rail have been re-consulted on the application and they agree with the recommendations of the Council's Planning Obligations Officer in respect of Rail Network Improvement Contributions and are content that these can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. They make no other comments on the application.
- 3.21 Transport Scotland have been re-consulted on the application and they too agree with the recommendations of the Council's Planning Obligations Officer in respect of strategic transport network contributions towards improvements at the Old Craighall, Salter's Road and Bankton trunk road junctions and are content that these can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement.
- 3.22 The application site is located within the school catchment areas of Wallyford Primary and Nursery School and the planned new Musselburgh Secondary School.
- 3.23 The Planning Obligations Officer advises that Wallyford Primary and Nursery School and Musselburgh Grammar School 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 £4,716,000 towards the provision of additional school accommodation at the new Wallyford Primary and Nursery School and a contribution of £2,605,200 towards the provision of a new secondary school in the Musselburgh Secondary Education Contribution Zone;
- 3.24 The required payment of a financial contribution of a total of £7,321,200 towards the provision of additional accommodation at the new Wallyford Primary and Nursery School and towards the provision of a new secondary school 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.

- 3.25 The Planning Committee's previous decision to grant planning permission in principle 15/00537/PPM was subject to, amongst other things, the part revocation of planning permission in principle 14/000903/PPM in respect of the land for the secondary school. The reason for this was to ensure that a secondary school could be built on that part of the site, and not the housing approved as part of planning permission in principle 14/00903/PPM. Since the taking of that decision, the Council has secured ownership of the land of the new secondary school site and therefore have control over what will be built on it. Consequently the Council's Service Manager for Legal and Procurement, the Council's Planning Obligations Officer and the Council's School Estate Planning Officer are all satisfied that it is no longer necessary to part revoke planning permission in principle 14/000903/PPM in respect of the land for the secondary school.
- 3.26 It is also recommended by the Planning Obligations Officer that no more than 600 additional residential units be erected on the application site (i.e. combined with planning permission in principle 14/00903/PPM a combined total of 2050 units), and that restrictions are placed on the annual completion rates arising from the proposed development. These recommended controls on annual completions and the number of residential units can reasonable and competently be imposed through the imposition of planning conditions.
- 3.27 The other conditions that were determined in October 2017 by the Service Manager-Planning, in consultation with the Convener and local members have also been reviewed and, where necessary, amended. Some conditions, such as those requiring transportation works that have subsequently been carried out, have been deleted. Other conditions have been added, such as a recommended condition relating to the need to reduce carbon emissions.
- 3.28 It is recommended that planning permission in principle be granted subject to the conditions set out in Appendix D and subject to the prior conclusion of a legal agreement to secure the contributions set out in paragraph 2.1 above.

4 POLICY IMPLICATIONS

- 4.1 None.

5 INTEGRATED IMPACT ASSESSMENT

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

6 RESOURCE IMPLICATIONS

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

7 BACKGROUND PAPERS

- 7.1 Appendix A - Report of Handling for application 15/00537/PPM
- 7.2 Appendix B –Extract from the Minutes of the Planning Committee meeting of the 28 June 2017
- 7.3 Appendix C - The conditions and heads of terms for the legal agreement that were agreed by the Service Manager-Planning, in consultation with the Convener and local members in October 2017
- 7.4 Appendix D – The recommended conditions to be imposed for planning permission in principle 15/00537/PPM

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DATE	11 May 2020

OFFICER REPORT**21st June 2017**App No. **15/00537/PPM**Application registered on **30th June 2015**Target Date **29th October 2015**

Proposal	Planning permission in principle for residential development with associated educational and community facilities and open space	SDELL	Y/N
Location	Land Located To The South And East Of Wallyford And At Dolphingstone East Lothian	CDEL Bad Neighbour Development	Y/N Y/N

APPLICANT: **East Lothian Developments Ltd**

Is this application to be approved as a departure from structure/local plan? Y/N

**c/o Holder Planning Ltd
Per Robin Holder
5 South Charlotte Square
Edinburgh
EH2 4AN**

DECISION TYPE: **Application Refused****PLANNING ASSESSMENT**

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

As a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 14/00022/PAN) and thus of community consultation prior to this application for planning permission in principle 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 a total of 100 people attended the two pre-application public exhibitions,

which were held at Wallyford Miner's Welfare Society & Social Club and the Loch Centre, Tranent. Attendees made a number of queries and comments regarding the proposals. The development for which planning permission in principle is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

This application relates to some 61.5 hectares of land to the south and east of Wallyford. The site extends towards Dolphingstone, with the eastern part of the site known as Dolphingstone, Wallyford. The land of the application site was formerly in agricultural use. Development of part of the site has commenced in respect of the SUDS ponds and distributor road approved by planning permission in principle 14/00903/PPM and approval of matters 15/00136/AMM.

The eastern part of the site known as Dolphingstone, Wallyford is within the Edinburgh Green Belt.

Immediately to the east of the application site is Dolphingstone Dovecot. The Dovecot, which is located within a walled garden, is listed as being of special architectural or historic interest (Category A). The majority of the application site is within the inventory boundary of the Battle of Pinkie, a battlefield included within the Inventory of Historic Battlefields. It is also part of a larger area that is identified by the Coal Authority as being potentially at risk from past mining related activity. The Firth of Forth Special Protection Area is located some 2km to the north of the application site.

In November 2009 outline planning permission 09/00222/OUT was granted for a proposed mixed use development incorporating residential uses, educational uses, library, retail, office units, restaurant, business units, general industrial units, storage and distribution units, trade counter units, residential institution, non-residential institution, hot food takeaways, playing fields, open space, allotments, drainage arrangements and all associated infrastructure, access, landscaping and site development, all on areas of land to the southwest, southeast, east and northeast of Wallyford and comprising some of the existing public road network of Wallyford.

Planning permission in principle (Ref: 12/00924/PPM) was subsequently sought for the renewal of planning permission in principle 09/00222/OUT for the proposed mixed use development incorporating residential uses; education uses; library; retail (class 1); office units (class 2); restaurant (class 3); business units (class 4); storage and distribution (class 6); trade counter units; residential institution - nursing home (class 8); non - residential institution - day centre (class 10); hot food takeaways; playing fields; open space; allotments; drainage arrangements and all associated infrastructural access; landscaping and site development works on land lying predominantly to the south and east of Wallyford but also including the Strawberry Corner garden centre; the entire length of Salters Road from the interchange with the A1 to the Wallyford Toll roundabout where traffic calming and environmental improvements are proposed; and Inchview Road where road realignment and alterations are proposed in association with the proposed development. On 1 April 2014 the Council resolved to approve the application subject to the required Section 75 Agreement and planning permission in principle 12/00924/PPM was duly granted with conditions on 14 November 2014 following the registration of that agreement.

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

- Variation of condition 2 of planning permission in principle 12/00924/PPM to allow for the development and occupation of residential units from both the western (A6094 - Salters Road) and northern (A199) ends of the site (Ref: 14/00913/PM); and

- Variation of condition 5 of planning permission in principle 12/00924/PPM to allow for up to 90 units to be completed in Year 1, up to 150 units in Year 2, up to 150 units in Year 3 and up to 60 units in Year 8 (Ref: 14/00916/PM).

In September 2015 planning permission in principle 14/00903/PPM was granted for amendments to planning permission in principle 12/00924/PPM, including an increase in number of residential units from 1050 up to a maximum of 1450, the relocation and redesign of open space, the development for residential purposes of areas previously proposed as open space and the relocation and redesign of the proposed local centre. The elements of the approved mixed use development include residential development, community buildings including a new school and community facilities, office units, a restaurant, business units, general industrial units, storage and distributions units, trade counter units, a residential institution, a non-residential institution, hot food takeaways, playing fields, open space, allotments, landscaping and associated infrastructure provision. Condition 1 of planning permission in principle 14/00903/PPM requires that the development of the site should generally accord with the indicative masterplan docketed to this planning permission in principle (Ref: 14/00903/PPM). Condition 4 states that no more than 1450 residential units shall be erected on the site of planning permission in principle 14/00903/PPM.

In October 2015 planning permission 15/00136/AMM was granted for the approval of matters specified in conditions of planning permission in principle 14/00903/PPM for infrastructure associated with the development of the Wallyford site in the form of access, landscaping and site development works including distributor road and access junctions onto the A199 and A6094, footpaths/cycleways, suds basins, acoustic bunds and development platforms. Development of the approved infrastructure is well underway.

In October 2016 planning permission 16/00537/AMC was granted for the approval of matters specified in conditions of planning permission in principle 14/00903/PPM for the erection of 26 houses and 18 flats on land to the south of Fa'side Avenue South. Development of the site has commenced.

In March 2017 planning permission 16/01056/AMM was granted for the approval of matters specified in conditions of planning permission in principle 14/00903/PPM for the erection of a school campus on some 6 hectares of agricultural land that is located to the south/southeast of the dispersed row of houses of Wallyford Farm Cottages, which are themselves located at the southern end of Inchview Road on the southeast edge of Wallyford. The approved school campus comprises a new primary school, a nursery, a shared school and community library, a dining hall and multi-purpose hall for shared school and community use, associated playgrounds, playing fields, car parking and associated works. Development of the school site has not yet commenced.

In April 2017 planning permission 17/00384/AMM was sought for the approval of matters specified in conditions of planning permission in principle 14/00903/PPM for the erection of 176 houses on land to the northeast of Wallyford and to the southeast of the Strawberry

Corner Garden Centre. That application is pending consideration and no decision has been taken on it.

In May 2017 planning permission 17/00432/AMM was sought for the approval of matters specified in conditions of planning permission in principle 14/00903/PPM for the erection of 242 houses on land to the southwest of Wallyford. That application is pending consideration and no decision has been taken on it.

Planning permission in principle is now sought for residential development with associated educational and community facilities and open space on the application site. The details submitted indicate that the proposed residential development would consist of 600-800 houses.

The land of the application site includes the southeast part of the land of planning permission in principle 14/00903/PPM, including the approved school site, the approved local centre site, and an additional area of land to the east of the site of planning permission 14/009003/PPM and extending towards Dolphingstone. It also includes a small section of the southwest end of Salters Road as well as the distributor road approved by planning permission in principle 14/00903/PPM and approval of matters 15/00136/AMM.

Since the registration of the application the masterplan has been revised, and further information has been submitted to support the application. The revised indicative masterplan shows changes to the proposal.

The main differences in respect of the masterplan now proposed as compared to that originally submitted are:

- * Amendments to the overall layout of the proposed housing and circulation routes, including the addition of an area of higher density housing on the northern part of the application site, adjacent to the A199 road;
- * Amendments to open space provision, including the principal area of open space being shown to be located in the southeast part of the site, immediately to the north of the A1 trunk road and to the west of Dolphingstone dovecote and walled garden;
- * Retention of the drain beneath the site and the provision of SUDS swales and surface water run off storage areas within the same part of the site as the drain.

The revised masterplan also shows that an area of land immediately to the north of the approved site for the primary school could be a location for a secondary school. That land forms part of the site the subject of planning permission in principle 14/00903/PPM and was indicatively approved for housing development. That land is also outwith the site the subject of this planning application, and the secondary school proposal does not form part of the proposed development that is the subject of this planning application.

All relevant re-notifications, re-advertisement in the press and re-consultations in respect of the changes have been duly undertaken.

The revised indicative masterplan show that the positions shown for the distributor road, SUDS ponds, school campus and local centre would be the same as that approved by planning permission in principle 14/00903/PPM.

The revised indicative masterplan also shows how up to 800 residential units could be positioned on the eastern part of the site, which is known as Dolphingstone, Wallyford. Most of those residential units are shown to be located to the south of the A199 road in a position to the south and southeast of the Kinwegar Recycling Centre and Waste Transfer Station. The remainder of the proposed housing is shown to be located in an area to the east of the approved school campus, in a position to the north of the A1 trunk road. Immediately to the northeast of that area of housing the masterplan indicates that an area of open space could be located. The revised indicative masterplan also shows how roads, footpaths, a SUDS pond, bunding and tree planting could be positioned within the application site. As it is indicated, all of the southern boundary of the site, other than the land adjacent to the area of open space, would contain an acoustic fence atop an earth bund. It also shows how the northern and eastern boundaries of the site could largely contain a belt of tree planting.

As it is indicated, the residential units to be positioned on the land of Dolphingstone, Wallyford, would be accessed from a total of four access points, two providing access from the A199 road to the north, and two providing access from the approved new distributor road to the west. It is also indicated that the area of housing proposed to the east of the approved school campus could be accessed from two access points providing access from the approved new distributor road to the west.

An environmental statement has been submitted with the planning application. It contains chapters on scoping and consideration of alternatives, air quality, noise, landscape and visual, impact on the Special Protection Area, archaeology and cultural heritage, traffic and transportation, water resources, drainage and flooding, ecology, ground conditions, soils and agriculture, and summary of affects.

In November 2016 an addendum to the environmental statement was submitted. The addendum assesses the impact of the revised proposals that were contained in the revised indicative masterplan also submitted to the Council in November 2016. All relevant neighbour notification, advertisement in the press and consultation in respect of the addendum to the environmental statement have been duly undertaken.

The application is also supported by a Supporting Statement, a Flood Risk Assessment and Drainage Strategy, a Design Statement and Visual Impact Assessment, a Landscape Design Statement and a Masterplan Report.

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

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policies 1B (The Spatial Strategy), 5 (Housing Land) 6 (Housing Land Flexibility) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Proposals H7 (Land to the South East and South West of Wallyford: Housing and Mixed Use Development), ED6 (Wallyford Primary School) and R4 (Supermarket Opportunity - Wallyford Expansion) and Policies DC2 (Development in the Edinburgh Green Belt), NH1a (Internationally Protected Areas), DP1 (Landscape and Streetscape Character), DP13 (Biodiversity and Development Sites), DP14 (Trees on or

Adjacent to Development Sites), DP17 (Art Works-Percent for Art), DP20 (Pedestrians and Cyclists), ENV3 (Listed Buildings), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: June 2014.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

One of the main Outcomes of Scottish Planning Policy is to create successful, sustainable places by supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places.

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

A principle in delivering this through the Development Management function is contained in paragraph 33 of Scottish Planning Policy in which it is stated that where relevant policies in a development plan are out of date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration. In assessing this, decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits, when assessed against the wider policies in Scottish Planning Policy.

The same principle is to be applied where a development plan is more than five years old.

The adopted East Lothian Local Plan is more than five years old.

At its Cabinet meeting of 10 December 2013, the Council agreed that at that time East Lothian had a shortfall in its effective housing land supply and in respect of this approved the Housing Land Supply: Interim Planning Guidance against which planning applications for housing on land not allocated for housing development would be assessed. This position, and the associated guidance, was updated in December 2014 and again in February 2016. This Interim Guidance reflects the principles of Policy 7 of SESplan. The Interim Guidance states that the upper size limit of the proposed development must be such that, were the Council to grant planning permission, it would not be of a scale that would prejudice the Council's subsequent flexibility to consider and determine the amount and location of housing land

release through the Local Development Plan process. In this, the Interim Guidance only applies to development proposals that, in their totality, do not exceed 300 residential units. As 600-800 houses are proposed, the Interim Guidance is not a material consideration in the determination of this application for planning permission in principle.

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

On 06 September 2016 the Council approved its Proposed Local Development Plan. It sets out a development strategy for the future of East Lothian to 2024 and beyond, as well as a detailed policy framework for guiding development. The Proposed Local Development Plan sets out the Council's settled view of where new development should and should not occur, including housing, education, economic and retail development, new transport links, and other infrastructure. It sets out a generous housing land supply to meet the requirements of Scottish Planning Policy and SESplan.

The Schedule 4 responses to comments on the plan during its period of representation were approved by Council at its meeting of 28 March 2017 and have been submitted, together with the plan, for Examination.

At this stage the Proposed Local Development Plan is the settled view of the Council as to the strategy, plans and policies for development. It is a material consideration in the determination of planning applications, however, as it remains subject to Examination it cannot be accorded the weight of an adopted development plan.

In Paragraph 34 of Scottish Planning Policy it is stated that where a plan is under review, it may be appropriate in some circumstances to consider whether granting planning permission would prejudice the emerging plan (in this case the Proposed Local Development Plan). Scottish Planning Policy goes on to state that such circumstances are only likely to apply where the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan. Prematurity will be more relevant as a consideration the closer the plan is to adoption or approval.

In respect of the above provision of Scottish Planning Policy it must therefore be considered whether or not the site under consideration is of a scale, location or phasing that is central to the Proposed Local Development Plan and whether a grant of planning permission in principle would, in this instance, predetermine decisions central to the plan such as to undermine the plan making process and therefore be considered premature. This would include consideration through the Examination of the plan of whether the planning merits of this site justify its allocation over others.

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

A total of 3 written representations have been received. All of those make objection to the principle of the proposed development. One of the objections is made on behalf of Strawberry Corner Garden Centre and another is from the Musselburgh Conservation Society.

A copy of the written objections are contained in a shared electronic folder to which all Members of the Committee have access.

The objections are made on the following main grounds:

- * destruction of the green belt;
- * loss of prime agricultural land;
- * the proposed development would lead to an increase in traffic, noise, dust and air pollution;
- * coalescence of Wallyford and Tranent;
- * the proposed development would be visually intrusive from great distances;
- * junction capacity issues at Dolphingstone and Wallyford Toll junctions;
- * educational issues in provision of schooling;
- * issues in provision of health services; and
- * the design of the proposed roundabout to the south of the Strawberry Corner Garden Centre would result in difficulties accessing the existing garden centre site and business, significantly undermining pedestrian and vehicular safety.

In relation to the latter concern, it is understood that agreement has been reached between the applicant and the owners of Strawberry Corner Garden Centre. Indeed, subsequent to their objection being received by the Council, planning permission (Ref: 17/00026/P) has been granted for the change of use of two separate areas of land to the south of the existing garden centre that once formed part of the A199 road and adjoining open space, all to garden centre use. In the determination of that planning application, the Council's Road Services were satisfied with proposals for access to the garden centre.

Wallyford Community Council (WCC) raise the following questions and comments:

1. WCC wouldn't want any further removal of any of the Community Woodland;
2. WCC question why the proposals includes some grassy areas, located in Inchview Crescent, Wemyss Gardens, and to the rear of the Community Centre;
3. As the residential units to be positioned on the land of Dolphingstone, Wallyford are quite far away from the proposed business centre, then WCC questions whether local shops should be provided for that area;
4. The master plan is heavily skewed towards housing and does not help to create local jobs;
5. Traffic is already a problem and mitigation measures should be considered;
6. WCC question whether a doctors surgery been secured for the area;
7. WCC query how much affordable housing has been allocated for Wallyford; and
8. WCC further query what specific plans have been considered for Inchview Road.

No removal of any part of the Community Woodland is proposed in this planning application.

It should be noted that NHS Lothian was consulted during the preparation of the Local Development Plan. They did not advise that there was a need for a new doctor's surgery in Wallyford, as is suggested by the Community Council.

Inchview Road is outwith the application site and no development to it is proposed in this planning application.

Following the Council's approval of the Proposed Local Development Plan, where an application for planning permission or planning permission in principle is for a site of that Proposed Plan, support is given for the residential or other potential of the site as relevant. This support remains subject to appraisal of the site in terms of technical considerations and any constraints, including infrastructure capacity constraints. Assessment will include consideration of developer contributions in respect of impacts, including cumulative impacts, on education, transportation, community facilities and other essential infrastructure. Consideration must also be given to the objections to the application and the relevant representations to the Proposed Local Development Plan.

In that the site now under consideration is housing site MH10 of the Proposed Local Development Plan, the Council recognises its potential for residential development. Proposal MH10 allocates the site for a residential development of circa 600 homes.

The Council's Legal Services has previously advised that planning case law confirms that a planning authority has two distinct obligations - to prepare development plans and to determine applications for planning permission and other statutory consents. One function should not be subservient to the other. Where an application stands to be determined and there are at the same time corresponding objections to a proposed Local Development Plan, as happens to be the case in this instance, the authority should still decide the application but must demonstrate that in so doing it took into account the nature of the corresponding objections. The applicants have confirmed that they wish the application to be determined at this time. In the context of planning case law it is therefore appropriate to determine this application with due consideration of that recognised residential potential, subject to the above material considerations and assessments, particularly in respect of cumulative impact considerations and of Scottish Planning Policy on prematurity and prejudice to the Proposed Local Development Plan.

Planning Committee is advised that, separate to the representations to this planning application, there have been some 3 objections to the Proposed Local Development Plan in respect of Proposal MH10. One of these is from Scottish Natural Heritage. Whilst Proposal MH10 requires mitigation of development related impacts and a careful approach to placemaking, Scottish Natural Heritage express concerns that the mitigation of landscape impacts, including avoidance of loss of important views to Edinburgh, the Forth Estuary and Fife will be very difficult to achieve, even with close adherence to matters set out in the Draft Development Brief for this site. The other two objections are from Musselburgh Conservation Society and Inveresk Village Society. They suggest that Proposal MH10 is amended to reduce the number of allocated houses by 200. They further suggest that any employment land lost at Howe Mire (a site to the southwest of Wallyford that is under consideration in the Proposed Local Development Plan for circa 170 houses and employment uses) could instead be provided within the application site.

As with the objections to this application, Members have access to the full text of the representations received on the plan in a shared electronic folder. The grounds of objection are considered through the technical assessment of the proposals in this report.

The primary material considerations in the determination of this application are:

- * whether or not the proposed development accords with development plan policy;
- * a consideration of the technical merits of the proposal and its assessment in relation to requirements including, where identified, cumulative requirements for developer contributions for essential infrastructure;
- * whether in scale and/or location it is appropriate for development at this time without predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan; and
- * if the above do not apply, whether there are material considerations that outweigh any conflict with the development plan and other planning guidance.

Part of the application site forms part of a larger area of land covered by Proposals H7, ED6 and R4 of the Local Plan, which is promoted for development for a combination of housing and mixed uses, a supermarket and a new primary school. Planning permission in principle (Ref: 14/00903/PPM) has already been granted for a housing and mixed use development of that larger site. The revised indicative masterplan submitted in respect of this application show that the components of development proposed for this part of the site (i.e. the distributor road, SUDS ponds, school campus and local centre) would in principle be the same as that approved by planning permission in principle 14/00903/PPM. Thus, the principle of this part of the proposed development accords with Proposals H7, ED6 and R4 of the adopted East Lothian Local Plan 2008. Furthermore, the proposed development of this part of the site would not prejudice the housing and mixed uses otherwise promoted by Local Plan Proposals H7 and R4. In all of this, there can be no objection to the principle of the proposed development of this part of the application site.

The approved Development Framework for Wallyford requires that a new mixed use local centre should form part of the proposed mixed use development. It must be located at the core of the expanded settlement to be highly accessible to all. The Development Framework states that the new local centre should contain, amongst other things, a local supermarket(s), and no less than 10 modular ground floor premises varying between no less than 65m² and up to 270m² per unit, yielding no less than 1500m² overall. Units will be capable of accommodating the type of active mixed uses common to a local centre.

The submitted drawings show that the local centre could contain a supermarket(s), with residential units above, commercial units, with either commercial units or residential units above, and residential units. To ensure that the local centre accords with the requirements of the approved Development Framework, controls could be imposed on the size of the supermarket and the number, size and use of commercial units. Were planning permission in principle to be granted for the proposed development than these controls could be secured through the imposition of a planning condition. Subject to these controls, the principle of development of the local centre is consistent with the approved Development Framework.

The remainder of the application site consists of the land of Dolphingstone, Wallyford. This part of the site is within the Edinburgh Green Belt. By being within the Green Belt this part of the application site is covered by Policy DC2 (Development in the Edinburgh Green Belt) of the adopted East Lothian Local Plan 2008. Policy DC2 provides the detailed context for the consideration of development proposals in the Edinburgh Green Belt. The proposed

housing development of this part of the application site is significantly contrary to Policy DC2 of the Local Plan.

However, this conflict with Policy DC2 of the Local Plan must be considered in relation to the Council's previous recognition of a shortfall in the effective housing land supply in East Lothian. It must also be weighed against the requirement of Policy 7 of SESplan.

SESplan is a more up to date component of the development plan. It deals directly with the requirement to maintain an effective five year housing land supply, as is required by Scottish Planning Policy.

On this consideration, SESplan Policy 7 states that sites for greenfield housing development proposals either within or outwith the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain an effective five years housing land supply subject to satisfying each of the following criteria:

- (a) The development will be in keeping with the character of the settlement and the local area;
- (b) The development will not undermine green belt objectives; and
- (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

What is proposed in principle for the development of the land of Dolphingstone, Wallyford would be a sympathetic extension of Wallyford with due regard to the existing built form of the settlement and the locational context of the site relative to the housing and mixed uses approved by planning permission in principle 14/00903/PPM. The proposed housing development of the land of Dolphingstone, Wallyford are shown on the revised indicative masterplan as being laid out and designed in a similar 'home zone' type layout as the other adjacent areas of residential development approved by planning permission in principle 14/00903/PPM. They would read as a logical extension of that approved development and of the settlement of Wallyford. As such they would be an appropriate form of housing development, subject to the submission of detailed designs.

Both Scottish Natural Heritage and the Council's landscape projects officer expressed concerns over the visual impact of the proposed development in views from the A1 trunk road. In particular, Scottish Natural Heritage expressed concerns that the mitigation of landscape impacts, including avoidance of loss of important views to Edinburgh, the Forth Estuary and Fife will be very difficult to achieve, whilst the landscape projects officer is concerned that the housing proposed for the northeast part of the site may be prominent and may affect the setting of the Category A listed Dolphingstone Dovecot.

In respect of Dolphingstone Dovecot, Historic Environment Scotland advise that it is located near the northwest boundary of the proposed development, and will have full visibility of the development. They consider that the key element of the setting of the dovecot to be its relationship with other associated buildings and the policies of Cowthrole House (which is now ruined). They advise that the proposed development will not affect this relationship, and will be separated from the dovecot by the boundary wall of the garden in which it is located. This being the case, Historic Environment Scotland are content that the impact of the

proposed development on the setting of the listed dovecot will not be significant. They therefore do not object to the proposed development.

To mitigate the impact on the setting of the listed dovecot, it is proposed to provide combined specimen tree planting and woodland along the eastern edge of the site, adjacent to the walled garden. Were planning permission in principle to be granted, then it would be prudent to require this planting to be provided at an early part of the development, in accordance with a timescale to be submitted to and approved by the Planning Authority.

Subject to the provision of this tree planting, and given the advice of Historic Environment Scotland, it can reasonably be concluded that the setting of the listed dovecot will not be unacceptably affected by the proposed housing development.

The concerns of both Scottish Natural Heritage and the Council's landscape projects officer regarding visual impact from the A1 trunk road were fully considered by the Council in their preparation of the Draft Development Brief for the land of Dolphingstone, Wallyford. The Draft Brief sets out the Council's vision of how the site should be developed. It states that important regionally distinctive views towards the Edinburgh skyline and the East Lothian coastline and sea should be maintained from the A1 trunk road. An area of open space, of minimum 300m by 185m, is to be left undeveloped as a necessary measure to ensure these key views are maintained. Planting chosen for this open space must be of a scale so as not obscure views in the longer-term (i.e. tall growing tree species should be avoided).

The applicant has attempted to comply with the Draft Brief by proposing a large area of open space adjacent to the A1 trunk road, in a central position on the southern part of the application site. However, both Scottish Natural Heritage and the landscape projects officer were concerned that the views over the indicatively proposed open space from the A1 would be adversely affected by the housing to be built to the northeast and northwest of it. To seek to overcome those concerns, it is now proposed that the open space would be located in the southeast part of the site.

Given the scale of development, there will inevitably be some impact on the views towards the Edinburgh skyline and the East Lothian coastline and sea. However, both Scottish Natural Heritage and the Council's landscape projects officer are now satisfied that the open space as it is now proposed could allow for the sufficient retention of some of those views. They are therefore satisfied that it meets the aims and objectives of the Draft Brief, and now raise no objection to the principle of the proposed development.

Notwithstanding this, careful attention should be given to the detailed design and layout of the housing, to ensure that as much of these important views are maintained, and to ensure that the development is satisfactorily integrated into its landscape setting. This could be addressed through any subsequent approval of matters application. In this regard, houses should be predominantly two storeys in height and, in the area of higher density housing indicated on the revised masterplan, no higher than 3 storeys and should be orientated to face the street. It may also be necessary for some of the houses nearest to the large area of open space to be single storey, in order to help maintain those important views from the A1 towards the Edinburgh skyline and the East Lothian coastline and sea. Another element of the conditioning should be a requirement for the submission of a scheme of final finishes with a palette of colours and materials for the houses, which has due regard to the finishes of other residential properties in the locality. Were planning permission in principle to be granted for

the proposed development then these controls could be secured through the imposition of planning conditions.

Subject to the appropriate controls being imposed, the housing development could be satisfactorily designed and laid out to ensure that it was in keeping with the character of Wallyford and with that of the adjacent housing approved by planning permission in principle 14/00903/PPM.

The land of Dolphingstone, Wallyford is in the Edinburgh Green Belt. Policy 7 of SESplan does not preclude the housing development of green belt land. Rather it requires that development will not undermine green belt objectives. Policy 12 of SESplan sets out the following objectives of the green belt:

- a. Maintain the identity and character of Edinburgh and Dunfermline and their neighbouring towns, and prevent coalescence, unless otherwise justified by the Local Development Plan settlement strategy;
- b. Direct planned growth to the most appropriate locations and support regeneration;
- c. Maintain the landscape setting of these settlements; and
- d. Provide opportunities for access to open space and the countryside.

In this case, the proposed development would not lead to the coalescence of Edinburgh and Dunfermline or any of their neighbouring towns. Whilst it would result in the further eastwards expansion of Wallyford, there would continue to be a sufficient degree of separation between Wallyford and other nearby settlements so as to protect their identity. Moreover, the land of Dolphingstone, Wallyford benefits from robust boundaries, which the applicant intends to further supplement with belts of tree planting. This planting would provide an appropriate landscape setting for what would become the eastern end of Wallyford.

The land of Dolphingstone, Wallyford is relatively near to Wallyford Station and is well served by public transport. In this, it is an appropriate location for further housing development. Moreover, by supporting the new school and local centre, the proposed housing would assist with the regeneration of Wallyford, which is a key objective of the adopted East Lothian Local Plan 2008.

The development, by providing open space on site in reasonably accessible locations, would provide opportunities for new residents and existing Wallyford residents to access open space.

Taking this together, it can reasonably be concluded that the proposed development would not undermine green belt objectives.

An assessment of additional infrastructure required as a result of the development is set out later on in this report. Such infrastructure will be funded by the developer.

In conclusion, the proposed development could meet the requirements of Policy 7 of SESplan. It could potentially contribute to the effective five year housing land supply

requirement of Scottish Planning Policy and SESplan Policy 7, and if so this could outweigh the considerations of Policy DC2 of the adopted East Lothian Local Plan 2008.

If planning permission in principle were to be granted, the details of the siting, design and external appearance of the proposed residential units, the landscaping of the site and the means of access to the proposed development would require the subsequent approval of the Planning Authority. Through the subsequent determination of such details in relation to Scottish Government Policy of Designing Streets and the Council's Urban Design Standards for New Housing Areas, and the Council's policies and practices in respect of residential amenity, planning control would be exercised to ensure that the built form of the development would be fully acceptable, with due regard to the need to safeguard the character and appearance of the site and of the area.

In respect of open space, the Council's Principal Amenity Officer is satisfied with the size of the areas of open space that are shown on the revised indicative masterplan. Notwithstanding this, he does raise some concern about the large area of open space being located within the southeast part of the application site. He questions whether it would be possible to move the large area of open space westwards, which would then provide connectivity to it from both the approved primary school and sports pitches. He does however recognise that his view on this matter may be contrary to the views of Scottish Natural Heritage and the Council's landscape project officer. The location of the large area of open space has been amended to seek to overcome the concerns of those consultees. If the open space were to be repositioned westwards in accordance with the recommendations of the Principal Amenity Officer, then it is likely that the important views from the A1 trunk road towards Edinburgh and the River Forth would be completely lost as a result of the proposed development. It would be harmful to the landscape character and appearance of the area and contrary to the Draft Brief for the site. Scottish Natural Heritage and the Council's landscape project officer would be likely to object to any such repositioning. Notwithstanding the concerns of the Principal Amenity Officer, the large area of open space as it is now proposed could be reasonably accessed both by existing residents in Wallyford and by future occupants of the development. In the circumstances, the landscape benefits of the large area of open space being in its currently proposed position outweigh the benefits that would accrue from locating it in close proximity to the approved primary school and sports pitches.

Regarding formal play provision, the drawings submitted with the application indicate how a total of 5 equipped play areas could be provided within the application site. No details of the size of play area or the equipment to be provided within them have been submitted. The Principal Amenity Officer advises that the equipped play should be principally focussed into fewer sites of much greater scale and value that should equally afford less burden to the residents in the long-term. In this, he advises that it would be beneficial to provide 3 large play areas. One of the play areas should be provided within the large area of open space to be provided within the southeast part of the site, one should be provided within the open space indicatively shown to the southeast of the approved primary school, and the other one should be provided within the linear area of open space that is shown to the east of the sites for primary school and local centre. He further advises that each of the 3 play areas should be equipped for children aged 0-15 with two including a MUGA facility. He further advises that up to 3 toddlers play areas should be provided within the smaller pockets of open space to more directly serve the immediate households. This approach should deliver an adequate accessibility standard across the majority of the development but offer sustainability in the long-term. Were planning permission in principle to be granted for the proposed development

then the recommendations of the Principal Amenity Officer could be secured through the imposition of a planning condition. Subject to this planning control the principal of the proposed development is consistent with Policy C2 of the adopted East Lothian Local Plan 2008.

The adjacent development approved by planning permission in principle 14/00903/PPM includes 1 full size grass pitch, 1 3G pitch and a four team changing pavilion. The Council's Sports Development & Community Recreation Team Manager advises that the location of those sports facilities on the eastern part of that site is in suitable proximity to the housing proposed in this planning application. The delivery of a 3G synthetic pitch will allow for additional carrying capacity, and also the requirement for a secondary school campus with associated sports pitches will support suitable sports pitch delivery. In view of all of the above, the Sports Development & Community Recreation Team Manager advises that in this specific case no additional sports pitches are required as part of the development now proposed.

The Council has undertaken a Habitats Regulations Appraisal (HRA), which concludes that there are not likely to be significant effects upon the Firth of Forth Special Protection Area (SPA). Scottish Natural Heritage agree with the findings of the HRA, advising that an appropriate assessment is not necessary. They raise no objection to the principle of the proposed development, being satisfied that it would not have an unacceptable impact on ecology, habitats or species.

The Council's Biodiversity Officer raises no objection to the principle of the proposed development.

Accordingly, the proposals do not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies NH1a and DP13 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: June 2014.

Policy INF3 of the adopted East Lothian Local Plan 2008 stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This includes funding necessary school capacity.

The Council's Depute Chief Executive, Resources and People Services informs that the application site is located within the school catchment areas of Wallyford Primary and Nursery School and the planned new Musselburgh Secondary School.

He advises that Wallyford Primary and Nursery School and Musselburgh Grammar School 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 £4,291,800 towards the provision of additional school accommodation at the new Wallyford Primary and Nursery School and a contribution of £2,443,800 towards the provision of a new Musselburgh Secondary School.

The required payment of a financial contribution of a total of £6,735,600 towards the provision of additional accommodation at the new Wallyford Primary and Nursery School and towards the provision of a new Musselburgh Secondary School can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning

agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, 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.

Moreover the Depute Chief Executive, Resources and People Services recommends that a restriction would need to be placed on the annual completion rates arising from the proposed development. In this, it is recommended that no more than 600 additional residential units be erected on the application site (i.e. combined with planning permission in principle 14/00903/PPM a combined total of 2050 units). Were planning permission in principle to be granted for the proposed development then this control on the number of residential units and on the annual completions could be imposed through the imposition of planning conditions.

Proposal MH11 of the proposed Local Development Plan states that the site for a new secondary school establishment to serve the Musselburgh area will be within either the application site or the site the subject of planning permission in principle 14/00903/PPM, preferably the latter.

The revised masterplan shows that an area of land immediately to the north of the approved site for the primary school could be a location for a secondary school. That land forms part of the site the subject of planning permission in principle 14/00903/PPM and was indicatively approved for housing development.

The Council's Depute Chief Executive, Resources and People Services advises that both the location and size of the indicatively suggested secondary school site are acceptable. To ensure that the site is secured as a site for a future secondary school, and not for housing development, that part of planning permission in principle 14/00903/PPM should be revoked. The part revocation can be implemented under section 65 and 67 Town and Country Planning (Scotland) Act 1997. The applicant has confirmed in writing that they are willing to enter into such an Agreement without compensation for the part revocation of planning permission in principle 14/00903/PPM.

Additionally, the Depute Chief Executive, Resources and People Services recommends that none of the proposed houses be occupied unless and until a secondary school has been erected on the site indicated for it on the revised indicative masterplan. Were planning permission in principle to be granted for the proposed development then this restriction could be imposed through the imposition of a planning condition.

The Council's Road Services advises that the proposed site is included within the Proposed Local Development Plan and was included within the East Lothian Council Transport Appraisal to determine the cumulative impacts of development on both the strategic and local road network. The model highlighted that the development of this site will have a cumulative impact on the wider strategic road network, however, it can be accommodated within the local road network in terms of road capacity. A Transport Assessment was also completed and looked at the future sustainable travel demand against the existing provision in the area. The Council's Transport Appraisal (TA) provides the evidence base which has informed the Council's draft Developer Contributions Framework (DCF) and has been produced in conjunction with the Local Development Plan TA so that Road Services can assess the cumulative impacts of the Local Development Plan allocations on the Transport Network.

The TA has identified a number of hot spots on the network which require interventions to mitigate the impact of the Local Development Plan allocations and the site was included within the East Lothian Council Transport Appraisal setting out the appropriate contribution levels for each of the Local Development Plan sites.

For the Dolphingstone, Wallyford site the requirement for developer contributions towards each intervention as identified through the above process is as follows (the works are detailed in the Transport Appraisal):

- * segregated Active Travel Corridor - £272,700;
- * improvements to Old Craighall junction - £15,468;
- * improvements to Salters Road Interchange and Bankton Interchange – £366,804 and £12,228;
- * improvements to the rail network - £457,674;
- * Musselburgh town centre improvements - £9,906; and
- * Tranent town centre improvements – £17,112.

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £1,151,892.

In respect of the matters above, Transport Scotland raised concerns in respect of previous planning applications 12/00924/PPM and 14/00903/PPM in relation to the development impact on the junction of the A1 trunk road and the A720 trunk road (i.e. the Old Craighall Junction south of Musselburgh, at the western end of East Lothian). In mitigation of this they sought a developer contribution, secured by an agreement with the applicant under Section 48 of the Roads (Scotland) Act. They confirm that any mitigation required in respect of Old Craighall Junction can be met through that existing agreement. On that basis, Transport Scotland raise no further objection in principle to the impact of the development on the Old Craighall junction.

Network Rail advises that the proposal will contribute to a cumulative impact on Wallyford Station and on local rail services within East Lothian and that mitigation of the impact of the development is required in accordance with the evidence base informing East Lothian Council's Draft Developer Contributions Framework. They recommend that the applicant provides a financial contribution of £457,674 towards design development work on a range of infrastructure projects within this corridor to help support the local rail services in the East Lothian Council area. To date, agreement on this matter has not been reached and it therefore is an unresolved material consideration in the determination of this application.

With allowance for the amount covered by the formal legal undertakings for payment to Transport Scotland and with allowance for the amount required for improvements to the rail network, the developer contributions towards the other required interventions of £678,750 can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution

towards these transport interventions, which the applicants have confirmed in writing that they are willing to make, the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made.

Proposal H7 of the adopted East Lothian Local Plan 2008 requires that development of the site must result in a significant improvement in traffic conditions within Wallyford, particularly along Salters Road. This is also a stated requirement of the approved Development Framework.

A detailed scheme of environmental and traffic calming improvements to Salters Road was part of the development approved by planning permission in principle 14/00903/PPM.

Included within the Environmental Statement is an update to the previous Transport Assessments and also the findings of additional modelling work for the now proposed masterplan of 2050 residential units and which forecasts operational phase traffic generation and road network impacts.

Roads Services conclude that the updated model illustrates, as per the previous model, that the proposed deflection strategy in place for the 1450 unit development would allow the road network to operate satisfactorily for the proposal for 2050 units, subject to mitigation at the Salters Road and Dolphingstone Interchanges. The applicant is therefore proposing mitigation at these two interchanges.

Roads Services therefore concludes that subject to the proposed mitigation at these two interchanges, the local road network would have sufficient capacity to accommodate traffic generated by the proposed development.

Roads Services confirm that the proposal as set out on the revised indicative masterplan is acceptable subject to detailed layouts. Therefore they have no objection to the principle of the proposed development of the application site subject to their recommended conditions for a grant of planning permission in principle to ensure that appropriate off site road improvement works are undertaken, that various identified road safety measures are undertaken, that the proposed mitigation at the Salters Road and Dolphingstone Interchanges is undertaken, that an appropriate amount of car parking be provided within the new local centre, that a Green Travel Plan be submitted, and that construction traffic movements be controlled.

The Council's Access Officer notes that the revised indicative masterplan shows a shared use path/ cycleway running along the northern boundary of the site, to the south of the A199 road. She advises that this should be a segregated shared use route of 3 metres wide and of adoptable standard, with appropriate shared use path connections from the housing development. The Access Officer recommends that the large area of open space indicated for the southeast part of the site should include a recreational path network, including a circular route, both connecting to and around this open space. Were planning permission in principle to be granted for the proposed development then the recommendations of the Access Officer could be imposed through the imposition of planning conditions.

The Council's Waste Services Manager raises concerns over the potential impact of the proposed housing development on the ongoing operation of the Kinwegar Waste Transfer and Recycling Centre, which is located to the north of the application site, on the other side of the A199 road. In particular, he is concerned that future occupants may raise concerns about noise and light pollution from the Waste Transfer and Recycling Centre. He also raises concerns over traffic impact and drainage design and impact.

The matters of traffic impact and drainage design and impact have been fully considered by the Council's Road Services and by SEPA and the Council's Team Manager - Structures, Flooding and Street Lighting respectively.

The Council's Environmental Health Manager has fully assessed the proposed development. As part of his assessment, he has considered possible sources of noise and other disturbance and the impact that they may have on the privacy and residential amenity of future occupants of the proposed houses. In his view it should be possible for future occupants to benefit from a satisfactory level of privacy and amenity. In this, he does not consider it necessary for mitigation measures to be undertaken to reduce noise or light pollution from the Waste Transfer and Recycling Centre.

The application site is bounded to the south by the A1 (T) trunk road and partly to the north by the A199 road. The Environmental Statement includes a noise report and an air quality report. The Council's Environmental Health Manager raises no objection to the proposed housing development and in this he accepts the findings of the Environmental Statement. He is otherwise generally satisfied in respect of the noise attenuation measures in respect of the A1 specified in the applicant's noise assessment, including earth bunds and acoustic fences. He further advises that an acoustic barrier is not required along the northern edge of the site as long as the northernmost houses have their garden amenity spaces located to the south. The revised indicative masterplan indicates that those houses would have their garden amenity spaces located to the south. To safeguard the amenity of existing residents, the Environmental Health Manager recommends that prior to the commencement of development a Construction Method Statement should be submitted to and approved by the Planning Authority.

In respect of air quality the Council's Environmental Health Manager is satisfied that the operational phase of the development would not result in an unacceptable increase in nitrogen dioxide emissions which would impact on the Musselburgh Air Quality Management Area. He recommends that any grant of planning permission in principle be subject to conditions requiring a green travel plan, support for and promotion of car clubs, financial support to low emission public transport options, installation of ultra low nitrogen dioxide boilers within the proposed dwellings and suitable electrical layout within dwellings to enable installation of electric vehicle charging points. The matters of internally fitted boilers and electrical layout are subject to Building Standards legislation which should not be duplicated by use of planning controls. As recommended by the Council's Road Services, the applicant is required to make a financial contribution of £9,906 for improvements to Musselburgh town centre. These improvements will be for transport interventions which shall address development related impacts on the identified Air Quality Management Area in Musselburgh town centre. Given that the applicant will be making the financial contribution recommended by the Council's Road Services it would be unreasonable to also require the applicant to additionally contribute towards car clubs and low emission public transport options. Were planning permission in principle to be granted for the proposed development then all of the other recommendations of the Environmental Health Manager could be secured through the imposition of planning conditions. The conditions relating to noise mitigation measures should include a timetable for their implementation in the course of the development. Subject to these recommended controls, the Environmental Health Manager raises no objection to the proposals, satisfied they would not result in harm to the amenity of any neighbouring land use.

The Coal Authority notes the coal mining activity that has previously been carried out on the site, and advises that this coal mining legacy potentially poses a risk to the proposed development. As such they recommend that further site investigations and remedial works will be required to address risks posed by both mine entries and shallow coal mine workings. Were planning permission in principle to be granted for the proposed development then these recommendations could be secured through the imposition of a planning condition. Subject to this planning control, the Coal Authority raise no objection to the principle of the proposed development.

The Scottish Environment Protection Agency (SEPA) advise that they have no objection to the proposals in respect of flood risk and groundwater. They do however recommend that prior to the commencement of development, evidence to prove that the SUDS proposal is adequate for the site must be submitted for the written approval of the Planning Authority, following consultation with SEPA. They also recommend that a construction environmental management plan be submitted to and approved in advance by the Planning Authority. Were planning permission in principle to be granted for the proposed development then the recommendations of SEPA could be secured through the imposition of planning conditions.

The Council's Team Manager - Structures, Flooding and Street Lighting raises no objection to the application, although he recommends that a SuDS scheme and Drainage Assessment for the site and an update of the Surface Water and Flood Risk Report, including mitigation measures that are required, should be submitted to and approved in advance by the Planning Authority. Were planning permission in principle to be granted for the proposed development then these recommendations could be secured through the imposition of planning conditions.

Scottish Water raise no objection to the principle of the proposed development, advising that there are no Scottish Water drinking water catchments or water abstraction sources that may be affected by the proposed development. They advise that they are currently working closely with East Lothian Developments Limited and other developers in the area to understand the impact of their developments and the network reinforcement works required to address these.

The application site forms part of the larger area of the designated site of Pinkie Battlefield and as such Historic Environment Scotland have been consulted on the application. Historic Environment Scotland has no comment to make on the proposals, being satisfied that the proposed development would not have a detrimental impact on the designated area of Pinkie Battlefield.

The Council's Archaeology Officer advises that the proposed development would be situated within the designated area of Pinkie Battlefield and also in close proximity to known archaeological sites recorded in East Lothian Council's Historic Environment Record. Because of this the Archaeology Officer recommends that a programme of archaeological works be carried out prior to the commencement of development. This can be secured through a condition attached to a grant of planning permission in principle for the proposed development. This approach is consistent with Scottish Planning Policy: June 2014 and Planning Advice Note 2/2011: Planning and Archaeology.

The Council's Economic Development & Strategic Investment Manager advises that a grant of planning permission in principle would require to be subject to provision of 25% of all housing units to be developed as affordable housing. They should be provided on site or, if it can be demonstrated to the Council that this, or the off-site provision of the required

affordable units is not practicable, a commuted sum payment should be made to the Council in lieu of such an on or off-site provision. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

The proposed development by its scale and prominent public location would have a significant impact on the local environment and thus in accordance with the requirements of Policy DP17 of the adopted East Lothian Local Plan 2008 it should incorporate artwork either as an integral part of the overall design or as a related commission. Were planning permission in principle to be granted for the proposed development then the artwork(s) could be secured through the imposition of a planning condition. Subject to this planning control the proposed development is consistent with Policy DP17 of the adopted East Lothian Local Plan 2008.

It is now necessary to consider whether in scale and/or location the site is appropriate for development at this time without predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan. If it is not, it is also necessary to consider whether there are material considerations that outweigh any conflict with the development plan and other planning guidance.

Paragraph 34 of Scottish Planning Policy: June 2014 states that, where a plan is under review, it may be appropriate in some circumstances to consider whether granting planning permission would prejudice the emerging plan. It advises that such circumstances are only likely to apply where the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan. Prematurity will be more relevant as a consideration the closer the plan is to adoption or approval.

On this matter the Planning Authority have sought a legal opinion on whether or not it would be appropriate to determine planning applications proposing 300 houses or more before the Report on Examination or adoption of the Emerging East Lothian Local Development Plan.

The legal opinion advises that it would not necessarily be inappropriate for the Council to determine such an application at this time. Whether or not such applications should be refused prior to the Report on Examination or adoption of the Plan is a matter of judgement for the Council. There is no hard and fast rule about how the question of prematurity should be approached, and it is clear from judicial consideration of Paragraph 34 of Scottish Planning Policy that the weight to be attached to the issue of prematurity, and ultimately whether or not a proposal is considered premature, is pre-eminently a matter of planning judgement for the Council.

The legal opinion further advises that on the issue of prematurity the Council should have regard to matters of scale, location and phasing of development, and its impact on the provision of and funding of necessary infrastructure (individually or cumulatively), the stage reached in the plan process and the timescale for its determination, the centrality or otherwise of the issue to be determined in the plan process to the decision whether or not to issue the

planning permission under consideration, the assessment of the prospects of success of the representation in the plan process, and the consequences of the determination in the plan process for the validity of the planning permission.

In this case the proposal is for a residential development of up to 800 new houses. In terms of the Proposed Local Development Plan, it is one of the largest new housing sites allocated for development. Moreover, the spatial strategy for East Lothian, which is set out in the Proposed Local Development Plan, is based on a compact strategy, which focuses the majority of new housing development in the west of East Lothian.

The application site is within the west of East Lothian and forms a key part of the compact strategy. Individually and cumulatively with other new housing development within the west of East Lothian, the proposed development is in a location and of a scale so substantial and of such a cumulative impact that it is clear that granting planning permission in principle would undermine the plan-making process by predetermining decisions about the scale and location of new development that are central to the emerging plan, such as to outweigh the material considerations of other provisions of Scottish Planning Policy and of the development plan.

In respect of this balance of all material considerations, planning permission in principle should be refused at this stage.

RECOMMENDATION

That planning permission in principle be refused for the following reason:

- 1 The development proposed is so substantial, and its cumulative effect so significant, that granting planning permission in principle would undermine the plan-making process by predetermining decisions about the scale and location of new development that are central to the emerging plan.

LETTERS FROM

21st June 2017

MINUTE EXTRACT PLANNING COMMITTEE 28 JUNE 2017

2. PLANNING APPLICATION NO. 15/00537/PPM: PLANNING PERMISSION IN PRINCIPLE FOR RESIDENTIAL DEVELOPMENT WITH ASSOCIATED EDUCATIONAL AND COMMUNITY FACILITIES AND OPEN SPACE, LAND LOCATED TO THE SOUTH AND EAST OF WALLYFORD AND AT DOLPHINSTONE

A report was submitted in relation to Planning Application No. 15/00537/PPM. Keith Dingwall, Team Manager, Planning Delivery presented the report. He informed Members that Strawberry Corner Garden Centre had withdrawn their objection. He drew attention to several aspects of the application. He outlined the impact of the development on the rail network, highlighting capacity and modelling work issues. He indicated that an agreement with Network Rail had not been reached. Legal advice was that a separate agreement, not a Section 75 Agreement, was required with Network Rail. If Members were inclined to go against the officer recommendation the advice would be to continue this application to allow for further discussion. Regarding prematurity, Scottish Planning Policy (SPP), paragraph 34, set out the relevant circumstances. Granting planning permission in principle at this time would pre-determine decisions on the scale and location of development and thereby undermine the planning process regarding the emerging Local Development Plan (LDP). The report recommendation was therefore for refusal.

Mr Dingwall and Iain McFarlane, Service Manager, Planning, responded to questions. Further details about continuation of the application were provided. Clarification was given in respect of primary and secondary school provision. Mr McFarlane responded to queries about other sites recommended for approval, explaining that those decisions had not been central to the Proposed LDP, the scale and location of a site had to be considered; there was a clear distinction between a small site in a dispersed location and a large site key to the compact strategy of the proposed plan. In relation to the scale of the proposal compared with the proposed plan requirement housing requirements, he indicated the figure was around 6-8%. Regarding a decision on the Proposed LDP, he advised that the Reporter had completed the first stage; the second stage was more detailed, an indicative timescale was 6-9 months. In respect of the proposed rate of house build completion and school provision he said this was a balance to be agreed between the developer, Planning and Education authorities.

Robin Holder of Holder Planning Ltd, agent for the applicant, stressed that Planning Officers supported all technical aspects of the application; the single point of contention was the interpretation of SPP regarding prematurity. He quoted from this policy as regards review of emerging LDPs and consideration of applications during this period; he refuted the reason for refusal. Other sites across the county with significant objections had been recommended for approval; this application only had 2 objections. Legal advice sought indicated that the Planning Committee could take a decision when taking prematurity into account; the balance of consideration would go towards granting planning permission. In respect of the Network Rail element he stated that if the Committee were to grant permission today a clause could be added; continuation of the application would not be beneficial.

Martin Quinn of East Lothian Developments Ltd (ELD), the applicant, stated that excellent progress had been made; work was on schedule and ELD was fully committed to delivery of this site. The proposed new secondary school on the site was vital to delivery of the compact strategy; ELD would work with the Council in this regard. There was strong support for this development from the local community. Responding to points raised he clarified that 200+

units would be revoked in relation to the location of the secondary school which was why the number varied between 600-800 units. This was a flagship project, not just for East Lothian but for the whole of Scotland.

Councillor Currie asked why a decision on this application could not wait until the Scottish Government had given their view on the Proposed LDP. Mr Quinn reiterated that the location for the secondary school meant the loss of 200+ houses and outlined the key funding issues. He added that infrastructure and utilities were in place and it was anticipated that early delivery of the site would be possible.

Local Member Councillor McLeod expressed concern that an agreement was not in place with Network Rail. He also took account of Mr McFarlane's comments and the legal opinion regarding prematurity. He would be supporting the officer's recommendation for refusal.

Councillor McMillan stated that key issues, including the need for housing in this area and the school provision, outweighed the question of timing. He had backed the Proposed LDP in terms of economic development and he would therefore be supporting this application.

Councillor Innes noted that throughout the report positive aspects of the application had been cited. The Proposed LDP was the settled view of the Council; it was a material consideration in the determination of planning applications. Members had heard from the applicant in relation to a separate agreement with Network Rail. Regarding prematurity the only issue was where this application sat in the timeframe; there were wider issues of significant importance to the Proposed LDP and to Wallyford in terms of economic regeneration, affordable housing, provision of a new primary school and community facilities. Mr McFarlane had said that the housing element equated to 6-8%; an application of this size should not be considered of a scale which would prejudice the examination of the proposed plan. He would be supporting the application.

Councillor Currie stated that the issue was purely timing; it was a judgement call for the Committee. There was a strong recommendation from the Planning Authority for refusal. He did not generally favour continuation but if certain matters needed to be addressed then this may be appropriate. He cautioned against decisions being taken before the Reporter had given their view on the Proposed LDP. The Committee should wait until that examination had been concluded; to make a decision today on this application would be to pre-empt that. He agreed with the officer's recommendation for refusal.

Councillor O'Donnell indicated that she was not convinced by the arguments put forward in support of the officer's recommendation for refusal. The Proposed LDP was the settled will of the Council. There were uncertain economic times ahead, the construction industry needed to be supported. She would be supporting the application.

Councillor Small remarked that Members had heard it could be several months before a decision was forthcoming from the Scottish Government regarding the Proposed LDP; applications could not be put on hold until then. He had been very impressed with the site, all the infrastructure was in place; this had to proceed. He supported the application.

Councillor Findlay agreed there was an issue of prematurity. He expressed serious concerns about capacity on the North Berwick train line. He remarked that the financial contribution Network Rail recommended to the applicant was in his opinion insufficient. He supported the officer's recommendation for refusal of this application.

Councillor Trotter indicated he would be supporting the officer's recommendation for refusal.

The Convener made reference to the numerous times the Wallyford application had come before the Committee; it was the most consulted planning site in East Lothian to have gone through the LDP process. There had been a huge consultation exercise with hardly any negative comments. The amount of investment on this site was far greater than seen on any other site. Once development was completed Wallyford would be one of the most attractive towns in East Lothian with a new primary school, a new secondary school and 500 affordable homes, desperately needed in this part of the county. Regarding prematurity he remarked that this Committee had to continually make difficult decisions. He would be supporting the application. He moved to the vote on the report recommendation (for refusal):

For: 4

Against: 7

Abstentions: 0

Mr McFarlane outlined the process that would require to be carried out given the Committee's decision to grant planning permission.

Decision

The Committee agreed to grant planning permission in principle subject to:

- 1 A Section 75 Agreement in relation to developer contributions, to be determined by the Service Manager-Planning, in consultation with the Convener and local members;
- 2 A separate legal agreement between the applicant and Network Rail to secure from the applicant to Network Rail a financial contribution of £457,674;
- 3 Conditions to the grant of planning permission in principle to be determined by the Service Manager-Planning, in consultation with the Convener and local members; and
- 4 Application 14/000903/PPM be part revoked in respect of the land for the secondary school.

APPENDIX C

At their meeting of the 28 June 2017, the Planning Committee decided to grant planning permission in principle 15/00537/PPM. The decision to grant planning permission in principle was subject to, amongst other things, the imposition of conditions and to the satisfactory conclusion of a legal agreement. The Planning Committee further decided that the precise wording of the conditions and Heads of Terms for the legal agreement should be determined by the Service Manager for Planning, in consultation with the Planning Convenor and Local Members.

Our suggested heads of terms and conditions are set out below.

HEADS OF TERMS:

(i) Secure from the applicant a financial contribution to the Council of £6,735,600 towards the provision of additional accommodation at the new Wallyford Primary and Nursery School and towards the provision of a new Musselburgh Secondary School.

(ii) secure from the applicant the provision of 25% of the final approved number of residential units within the application site as affordable residential units or if it can be demonstrated to the Council that this, or the off-site provision of 25% of the final approved number of residential units as affordable units is not practicable, to secure from the applicant a commuted sum payment to the Council in lieu of such an on or off-site provision;

iii) a financial contribution to the Council for £678,750 towards the provision of road improvements to Salters Road Interchange and Bankton Interchange, Musselburgh and Tranent town centre improvements and towards the development of an active travel corridor.

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient school capacity at Wallyford Primary and Nursery School and Musselburgh Grammar School, the lack of provision of affordable housing, and the lack of road and transport infrastructure improvements, contrary to, as applicable, Policies INF3 and H4 of the adopted East Lothian Local Plan 2008.

CONDITIONS:

1 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of all the dwellings and other buildings, the means of access to them, the means of any enclosure of the boundaries of the site and of gardens and other subdivisions of the site and the landscaping of the site and those details shall generally accord with the Indicative Masterplan drawing no. 13052(PL02)001-E docketed to this planning permission in principle, and shall address the following requirements:

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

b. Houses shall be predominantly two storeys in height and, in the area of higher density housing indicated on the revised masterplan, no higher than 3 storeys in height;

c. Notwithstanding that shown in the Indicative Masterplan docketed to this planning permission in principle there shall be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary street frontage;

d. The detailed design of the layout shall accord with the principles set out in the Council's Design Standards for New Housing Areas and with Designing Streets: A Policy Statement for Scotland;

e. The external finishes of the residential units shall be in accordance with a coordinated scheme of materials and colours that shall respect the layout of the development and shall promote render as the predominant finish to the walls of the residential units.

f. Notwithstanding the details shown in the Indicative Masterplan referred to above, there shall be a separation distance of at least 9 metres between facing windows of a proposed new building and the garden boundaries of existing or proposed neighbouring residential properties; and a separation distance of at least 18 metres between directly facing windows of a proposed new building and the windows of existing or proposed neighbouring residential properties.

g. Parking for the residential, local centre and primary school components of the development hereby approved shall be provided at a rate as set out in the East Lothian Council's "Standards for Development Roads- Part 5 Parking Standards" For the local centre and school this shall include for cycle parking. Electric vehicle charging points shall be provided within the local centre. Private parking spaces in the local centre and other private parking areas shall be a minimum of 2.5 metres by 5 metres and spaces on the public road shall be a minimum of 2.5 metres by 6 metres. All visitor parking spaces within private parking areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings. Access to private parking areas other than driveways shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first ten metres. Private driveways shall be a minimum of 6 metres by 2.5 metres, double driveways shall be 5 metres by 6 metres or 3 metres by 11 metres. 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.

h. All access roads shall conform to East Lothian Council's "Standards for Development Roads" in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming measures.

i. Cycle parking shall be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed.

j. The provision of a vehicular access from the new distributor road to the site of the residential institution/ non-residential institution unit/ retirement homes use approved by planning permission in principle 14/00903/PPM.

k. The provision of a continuous 3 metre wide footway on the south side of the A199 over the full extent of the new 30 mph speed limit (i.e. from the existing roundabout at Strawberry Corner to the new 30 mph speed limit on the Eastern side of the proposed priority access junction on the A199; and the upgrading of the existing footway on the Southern side of Wallyford Toll Roundabout to a continuous 3 metre wide footway to provide an appropriate footway / cycle link between the new footway infrastructure on the A199 and the A6094 Salters Road.

l. The proposed road linking the A199 to the distributor Road shall be a minimum of 6metre wide with the Junction onto the A199 having minimum corner radii of 10metres;

m. The remote footpaths through the site shall be a minimum of 2 metres wide and constructed to an adoptable standard;

n. The provision of a 1.2 metre high natural stone wall along the northern boundary of the site.

Reason:

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

2 The details to be submitted pursuant to condition 1 shall include a phasing plan which shall accord with the following requirements:

(i) The traffic calming and environmental improvement works to be undertaken on Salter's Road, which were approved by planning permission in principle 14/00903/PPM, shall be completed prior to the commencement of development, unless otherwise approved in writing by the Planning Authority following consultation with Transport Scotland.

(ii) The improvements to the Salters Road and Dolphingstone interchanges as outlined in the AECOMM Transport Assessment shall be completed prior to the occupation of any residential dwelling hereby approved, unless otherwise approved in writing by the Planning Authority following consultation with Transport Scotland.

(iii) Pedestrian links between each phase of development and the existing settlement to be provided prior to the occupation of the first dwelling house in each phase unless otherwise agreed with the local planning authority.

(iv) No more than 600 residential units in total shall be occupied within the application site and the adjacent site the subject of planning permission in principle 14/00903/PPM unless and until the new Wallyford primary school has been completed and is made available for use, unless otherwise approved by the Planning Authority.

(v) None of the houses hereby approved shall be occupied unless and until a secondary school has been erected on the site indicated for it on the revised indicative masterplan.

(vi) The supermarket(s) and local centre units must be completed in accordance with the requirements of condition 6 below, and ready for letting, by occupation of any of the residential units hereby approved unless otherwise agreed with the Planning Authority.

(vii) Any footways linking the development areas to the new school should be finished to an adoptable standard with final surfacing before the occupation of any houses on the route.

(viii) The new sheltered bus stop provision shall be provided on the A199 along the site frontage prior to the occupation of any residential dwelling hereby approved, unless otherwise approved in writing by the Planning Authority.

(ix) The approved distributor road shall be completed to base course level and open to public use prior to the occupation of the first residential unit hereby approved.

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.

3 The development of the site shall conform with the minimum density requirements established for the identified development areas shown on docketed drawing no. 13052(PL02)005-C as well as generally complying with the range of house types and sizes shown on the same drawing.

Reason:

To ensure compliance with the provisions of the development plan.

4 No more than 2050 residential units in combined total shall be erected on the application site and the adjacent site the subject of planning permission in principle 14/00903/PPM.

Reason:

To ensure that there is sufficient education capacity, to restrict the scale of development to that applied for and identified in the applicant's Transport Assessment and to minimise interference with the safety and free flow of traffic on the trunk road.

5 Unless otherwise approved in writing by the Planning Authority, 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 2027/2028	-	140 residential units
Year 2028/2029	-	150 residential units
Year 2029/2030	-	150 residential units

Year 2030/2031 - 150 residential units
Year 2031/2032 - 10 residential units

If less than the specified number of residential units are completed in any one year then those shall be completed instead at Year 2020/2021 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 Unless otherwise approved in writing in advance by the Planning Authority, the local centre hereby approved shall contain, amongst other things, a local supermarket(s), and no less than 10 modular ground floor commercial premises varying between no less than 65m² and up to 270m² per unit, yielding no less than 1500m² overall. The commercial units shall be restricted in use to Class 1 (Shops), Class 2 (Financial, Professional and Other Services) or Class 3 (Food and Drink) of the Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended, unless otherwise approved by the Planning Authority.

No more than 2731 square metres (gross) of the total gross floor space of the commercial units shall be used for convenience retail and no more than 603 square metres (gross) of the total gross floor space of the commercial units shall be used for comparison retail.

Reason:

In order to retain control over the format of retail and other commercial development in the interests of the vitality and viability of the new local centre.

7. Notwithstanding the drawings docketed to this planning permission in principle, 3 large play areas and 3 toddlers play areas shall be provided within the application site.

Prior to the commencement of development details of the play areas shall be submitted to and approved by the Planning Authority. The submitted details shall comply with the following requirements:

- a. One of the large play areas shall be provided within the large area of open space to be provided within the southeast part of the site, one of the large play areas shall be provided within the open space indicatively shown to the southeast of the approved primary school, and the other large play area shall be provided within the linear area of open space that is shown to the east of the sites for the primary school and local centre;
- b. each of the 3 large play areas shall be equipped for children aged 0-15, and two of the large play areas shall include a Multi Use Games Area facility; and
- c. The 3 toddlers play areas shall be provided within the smaller pockets of open space.

The submitted details shall include details of the play equipment to be installed in each play area, and a timetable for the provision of each of the play areas.

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

The equipped play areas shall thereafter be retained on site.

Reason:

To ensure provision of a satisfactory level of equipped play provision, in the interests of the amenity of future occupants.

8. 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 recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development. The scheme shall also include a maintenance plan for the management of the scheme of landscaping. It shall also include details of all planting and landscaping along the boundary of the site with the A1(T) trunk road. Such planting shall be shown to be planted on both sides of any acoustic bund that is required. The scheme shall further include combined specimen tree planting and woodland along the eastern edge of the site, adjacent to the walled garden. It shall also include a timetable for the planting of the combined specimen tree planting and woodland. Such timetable shall show the combined specimen tree planting and woodland being planted at an early stage of the development.

The combined specimen tree planting and woodland shall thereafter be planted in accordance with the details so approved.

All planting, seeding or turfing comprised in the approved details of landscaping, other than the combined specimen tree planting and woodland that is to be planted at any early stage of the development, shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

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.

9. A Green Travel Plan shall be submitted to and approved by the Planning Authority prior to the occupation of any component of the approved development. 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.

The 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 approved development and mitigating air quality impacts.

10. Prior to the commencement of development details of new sheltered bus stop provision on the A199 along the site frontage shall be submitted to and approved by the Planning Authority.

The new sheltered bus stop provision shall be provided in accordance with the details so approved prior to the occupation of any residential dwelling hereby approved, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the approved development and mitigating air quality impacts.

11. Prior to the commencement of development details of the proposed priority junction onto the A199 shall be submitted to and approved in writing by the Planning Authority. The submitted details shall show that the priority junction has been designed in accordance with the Design Manual for Roads and Bridges, Volume 6. The submitted details shall also include the findings of an independent road safety audit of the proposed priority junction.

The priority junction shall thereafter be formed in accordance with details so approved.

Reason:

In the interests of road safety.

12. Prior to the commencement of development details of the improvements to the Salters Road and Dolphingstone interchanges shall be submitted to and approved in writing by the Planning Authority, following consultation with Transport Scotland. The submitted details shall include the findings of an independent road safety audit for the proposed Dophingstone Junction Improvements outlined in the AECOMM Transport Assessment

The improvements to the Salters Road and Dolphingstone interchanges details so approved, including with the approved findings of the independent road safety audit, and with the requirements of condition 2 above.

Reason:

In the interests of road safety.

13. Prior to their installation, details of formal signalised pedestrian crossing points on the distributor road shall be submitted for the approval of the Planning Authority. This shall include crossing points on relevant pedestrian desire lines to the local centre and school, as agreed with the Planning Authority. Thereafter the signalised pedestrian

crossing points shall be constructed and brought into use prior to the occupation of any house or flat built to the south, east or west side of the Distributor Road.

Reason:

In the interests of road safety.

14. The 2 new main routes between the distributor road and the A199 through the site shall have traffic calming measures to reduce vehicle speeds along the route and this shall include raised tables at junctions and crossing points with appropriate speed bumps at other locations. Prior to the commencement of development details of all of which shall be submitted for the prior approval of the Planning Authority.

Prior to the commencement of development details of the traffic calming measures shall be submitted to and approved in writing by the Planning Authority.

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

Reason:

In the interests of road safety.

15. Prior to the occupations of any of the residential units hereby approved, the lanterns of all of the existing lighting columns around the Wallyford Toll Roundabout junction shall be replaced. Details of the replacement lanterns shall be submitted to and approved by the Planning Authority in advance of their installation.

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

Reason:

In the interests of road safety.

16. A monitoring program of traffic flows on Salters Road and the new distributor road shall be put in place to ensure that the deflection measures are operating to the satisfaction of the Planning Authority. Traffic count surveys shall be completed on occupancy of the 175th unit, the 450th unit, the 675th unit, and on completion of the development. The findings of the traffic count surveys shall be submitted to the Planning Authority within a period of two months from the date of the traffic count, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interest of road safety.

17. No housing units of the development shall be occupied unless and until the existing 30 miles per hour speed limit has been extended along the frontage of the site on the A199 from the existing 30 mph limit at the New Strawberry Corner Roundabout to the eastern side of the new priority access junction.

Details of the proposed extension to the existing 30 miles per hour speed limit shall be submitted to and approved in advance by the Planning Authority. These measures shall be implemented in accordance with the details as approved by the Planning Authority.

Reason:

In the interest of road safety.

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

Reason:

In the interests of road safety.

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

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

Reason:

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

20. The details to be submitted pursuant to condition 1 above shall include full details of all noise mitigation measures. These shall be designed to ensure that the guideline values levels set out in BS 8233 Sound Insulation and Noise Reduction for Buildings- Code of Practice are met. The mitigation measures shall include the erection of an acoustic barrier along most of the southern boundary of the site, adjacent to the A1 trunk road. The details to be submitted shall also include a timetable for the implementation of all of the proposed noise mitigation measures.

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

Reason:

To ensure an appropriate level of acoustic screening in the interests of the amenity of the future occupants of the site.

21. Prior to the commencement of development, details of all areas of public open space shall be submitted to and approved in writing by the Planning Authority. The details shall show the provision of bins and benches within the public open space and a recreational path network, including a circular route, both connecting to and around the large area of open space indicated for the southeast part of the application site. The submitted details shall include a timetable for the provision of all areas of open space, including the bins and benches and recreational path network, and proposals for their future maintenance.

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

Reason:

In the interests of the amenity of the area.

22. No residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the occupation of the final residential unit approved for erection on the site.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

23. The details to be submitted pursuant to condition 1 above shall include:

- a) The submission of a report of findings arising from the further proposed intrusive site investigations, including the results of any gas monitoring undertaken;
- b) The submission of a layout plan which identifies appropriate zones of influence for the recorded mine entries on site, and the definition of a suitable 'no-build' zones;
- c) The submission of a scheme of treatment for the recorded mine entries, if identified on site for approval; and
- d) The submission of a scheme of remedial works for the shallow coal workings for approval together with a timetable for the implementation of any identified remedial works.

The remedial works shall thereafter be fully implemented in accordance with the details so approved.

Reason:

To secure the necessary report of findings for the shallow coal workings and the mine entries, together with the implementation of the necessary remedial works, in order to ensure that development does not occur above or too close to these mining hazards.

24. Prior to the commencement of any development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved by the Planning Authority, following consultation with SEPA.

All development shall thereafter be carried out in accordance with the CEMP so approved.

Reason:

To control pollution of air, land and water and to ensure that waste is managed in a sustainable manner

25. Prior to the commencement of development:

a) evidence to prove that the SUDS proposal is adequate and acceptable for the site shall be submitted to and approved by the Planning Authority, following consultation with SEPA. The evidence shall include calculations using the Simple Index Approach (SIA) as described in section 26.7.1 of the SUDS Manual C753. It shall also include a Surface Water Drainage Assessment, in accordance with the 'Water Assessment and Drainage Assessment Guide' produced by the SuDS Working Party. The Surface Water Drainage Assessment shall include: details of pre and post development flows entering the Ravenshaugh Burn; and the capacities of the culverts on the Ravenshaugh Burn to ensure there is no increase to flood risk downstream. The Assessment shall also encompass the whole development area approved by planning permission in principle 14/00903/PPM; and

b) a timetable for the implementation of the SUDS proposal shall be submitted to and approved by the Planning Authority, following consultation with SEPA.

The SUDS scheme shall thereafter be implemented in accordance with the evidence and timetable so approved.

Reason:

To ensure adequate protection of the water environment from surface water run-off.

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

Reason:

To facilitate an acceptable archaeological investigation of the site.

APPENDIX D

1 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of all the dwellings and other buildings, the means of access to them, the means of any enclosure of the boundaries of the site and of gardens and other subdivisions of the site, any artwork to be erected on site, and the landscaping of the site and those details shall generally accord with the Indicative Masterplan drawing no. 13052(PL02)001-E docketed to this planning permission in principle, and shall comply with the following requirements:

a. Other than in exceptional circumstances where the layout or particular building type does not permit, houses and flats shall be orientated to face the street, and where a building is located on a corner of more than one street, it shall have enhanced gable(s) to ensure it has an active elevation to each street it faces;

b. Residential units shall be predominantly two storeys in height and no higher than 3 storeys in height;

c. Notwithstanding that shown in the Indicative Masterplan docketed to this planning permission in principle there shall be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary or secondary street frontage;

d. The detailed design of the layout shall accord with the principles set out in the Council's Design Policies and with Scottish Government Policy Designing Streets;

e. The external finishes of the residential units shall be in accordance with a coordinated scheme of materials and colours that shall respect the layout of the development and shall promote render as the predominant finish to the walls of the residential units.

f. Notwithstanding the details shown in the Indicative Masterplan referred to above, there shall be a separation distance of at least 9 metres between facing windows of a proposed new building and the garden boundaries of existing or proposed neighbouring residential properties; and a separation distance of at least 18 metres between directly facing windows of a proposed new building and the windows of existing or proposed neighbouring residential properties.

g. Parking for the residential, local centre and primary school components of the development hereby approved shall be provided at a rate as set out in the East Lothian Council's "Standards for Development Roads- Part 5 Parking Standards" For the local centre and school this shall include for cycle parking. Electric vehicle charging points shall be provided within the local centre. Private parking spaces in the local centre and other private parking areas shall be a minimum of 2.5 metres by 5 metres and spaces on the public road shall be a minimum of 2.5 metres by 6 metres. All visitor parking spaces within private parking areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings. Access to private parking areas other than driveways shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first ten metres. Private driveways shall be a minimum of 6 metres by 2.5 metres, double driveways shall be 5 metres by 6 metres or 3 metres by 11 metres. 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.

h. All access roads shall conform to East Lothian Council's "Standards for Development Roads" in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming measures.

i. Cycle parking shall be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed.

j. The proposed road linking the A199 to the distributor Road shall be a minimum of 6 metres wide with the Junction onto the A199 having minimum corner radii of 10 metres; and

k. The remote footpaths through the site shall be a minimum of 2 metres wide and constructed to an adoptable standard;

Reason:

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

2 The details to be submitted pursuant to condition 1 shall include a phasing plan which shall accord with the following requirements:

(i) The improvements to the Salters Road and Dolphingstone interchanges as outlined in the AECOMM Transport Assessment shall be completed prior to the occupation of any residential dwelling hereby approved, unless otherwise approved in writing by the Planning Authority following consultation with Transport Scotland.

(ii) Pedestrian links between each phase of development and the existing settlement shall be provided prior to the occupation of the first dwelling house in each phase unless otherwise agreed with the Planning Authority.

(iii) The supermarket(s) and local centre units must be completed in accordance with the requirements of condition 6 below, and ready for letting, before occupation of a combined total of 675 residential units approved by this planning permission in principle and planning permission in principle 14/00903/PPM, unless otherwise agreed with the Planning Authority.

(iv) Any footways linking the development areas to the new school shall be finished to an adoptable standard with final surfacing before the occupation of any houses on the route.

(v) The approved distributor road shall be completed to base course level and open to public use prior to the occupation of the first residential unit hereby approved.

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.

3 The development of the site shall conform with the minimum density requirements established for the identified development areas shown on docketed drawing no. 13052(PL02)005-C as well as generally complying with the range of house types and sizes shown on the same drawing.

Reason:

To ensure compliance with the provisions of the development plan.

4 No more than 2050 residential units in combined total shall be erected on the application site and the adjacent site the subject of planning permission in principle 14/00903/PPM.

Reason:

To ensure that there is sufficient education capacity, to restrict the scale of development to that applied for and identified in the applicant's Transport Assessment and to minimise interference with the safety and free flow of traffic on the trunk road.

5 Unless otherwise approved in writing by the Planning Authority, 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 2022/2023	-	40 residential units
Year 2023/2024	-	60 residential units
Year 2025/2025	-	60 residential units
Year 2025/2026	-	60 residential units
Year 2026/2027	-	82 residential units
Year 2027/2028	-	120 residential units
Year 2028/2029	-	120 residential units
Year 2029/2030	-	120 residential units
Year 2030/2031	-	120 residential units
Year 2031/2032	-	18 residential units

If less than the specified number of residential units are completed in any one year then those shall be completed instead at Year 2032/2033 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 Unless otherwise approved in writing in advance by the Planning Authority, the local centre hereby approved shall contain, amongst other things, a local supermarket(s), and no less than 10 modular ground floor commercial premises varying between no less than 65m² and up to 270m² per unit, yielding no less than 1500m² overall. The commercial units shall be restricted in use to Class 1 (Shops), Class 2 (Financial, Professional and Other Services) or Class 3 (Food and Drink) of the Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended, unless otherwise approved by the Planning Authority.

No more than 2731 square metres (gross) of the total gross floor space of the commercial units shall be used for convenience retail and no more

than 603 square metres (gross) of the total gross floor space of the commercial units shall be used for comparison retail.

Reason:

In order to retain control over the format of retail and other commercial development in the interests of the vitality and viability of the new local centre.

7. Notwithstanding the drawings docketed to this planning permission in principle, 3 large play areas and 3 toddlers play areas shall be provided within the application site.

Prior to the commencement of development details of the play areas shall be submitted to and approved by the Planning Authority. The submitted details shall comply with the following requirements:

- a. One of the large play areas shall be provided within the large area of open space to be provided within the southeast part of the site, one of the large play areas shall be provided within the open space indicatively shown to the north of the approved primary school, and the other large play area shall be provided within the linear area of open space that is shown to the east of the sites for the primary school and local centre;
- b. each of the 3 large play areas shall be equipped for children aged 0-15, and two of the large play areas shall include a Multi Use Games Area facility; and
- c. The 3 toddlers play areas shall be provided within the smaller pockets of open space.

The submitted details shall include details of the play equipment to be installed in each play area, and a timetable for the provision of each of the play areas.

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

The equipped play areas shall thereafter be retained on site.

Reason:

To ensure provision of a satisfactory level of equipped play provision, in the interests of the amenity of future occupants.

8. 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. The scheme shall also include a maintenance plan for the management of the scheme of landscaping. It shall also include details of all planting and landscaping along the boundary of the site with the A1(T) trunk road. Such planting shall be shown to be planted on both sides of any acoustic bund and/ or boundary fence. The scheme shall further include combined specimen tree planting and woodland along the eastern edge of the site,

adjacent to the walled garden. Specific planting details shall include large species feature trees in open spaces to include beech, Scots pine and oak. The scheme shall also include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development. The scheme shall include a timetable for implementation of landscaping, and this scheme shall show that the combined specimen tree planting and woodland 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. The design of all landscaping must be carried out in conjunction with the design and positioning of all services, and sufficient space must be made available to accommodate the full establishment of all landscaping work without impacting on any services.

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.

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.

9 The maintenance of all communal landscape areas, and where applicable hedges to private front gardens, shall be adopted and maintained by Estate Management or Factored 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.

10. 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 and when it will be distributed to all residents.

The 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 approved development.

11. Prior to the commencement of development details of new sheltered bus stop provision on the A199 along the site frontage shall be submitted to and approved by the Planning Authority.

The new sheltered bus stop provision shall be provided in accordance with the details so approved prior to the occupation of any residential dwelling hereby approved, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the approved development and mitigating air quality impacts.

12. Prior to the commencement of development details of the proposed priority junction onto the A199 shall be submitted to and approved in writing by the Planning Authority. The submitted details shall show that the priority junction has been designed in accordance with the Design Manual for Roads and Bridges, Volume 6. The submitted details shall also include the findings of an independent road safety audit of the proposed priority junction.

The priority junction shall thereafter be formed in accordance with details so approved.

Reason:

In the interests of road safety.

13. Prior to the commencement of development details of the improvements to the Salters Road and Dolphingstone interchanges shall be submitted to and approved in writing by the Planning Authority, following consultation with Transport Scotland. The submitted details shall include the findings of an independent road safety audit for the proposed Dophingstone Junction Improvements outlined in the AECOMM Transport Assessment

The improvements to the Salters Road and Dolphingstone interchanges shall thereafter be carried out in accordance with the details so approved, including with the approved findings of the independent road safety audit, and with the requirements of condition 2 above.

Reason:

In the interests of road safety.

14. Prior to their installation, details of formal signalised pedestrian crossing points on the distributor road shall be submitted for the approval of the Planning Authority. This shall include crossing points on relevant pedestrian desire lines to the local centre and school, as agreed with the Planning Authority. Thereafter the signalised pedestrian

crossing points shall be constructed and brought into use prior to the occupation of any house or flat built to the south, east or west side of the Distributor Road.

Reason:

In the interests of road safety.

15. The 2 new main routes between the distributor road and the A199 through the site shall have traffic calming measures to reduce vehicle speeds along the route and this shall include raised tables at junctions and crossing points with appropriate speed bumps at other locations. Prior to the commencement of development details of all of which shall be submitted for the prior approval of the Planning Authority.

Prior to the commencement of development details of the traffic calming measures shall be submitted to and approved in writing by the Planning Authority.

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

Reason:

In the interests of road safety.

16. Prior to the occupations of any of the residential units hereby approved, the lanterns of all of the existing lighting columns around the Wallyford Toll Roundabout junction shall be replaced. Details of the replacement lanterns shall be submitted to and approved by the Planning Authority in advance of their installation.

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

Reason:

In the interests of road safety.

17. A monitoring program of traffic flows on Salters Road and the new distributor road shall be put in place to ensure that the deflection measures are operating to the satisfaction of the Planning Authority. Traffic count surveys shall be completed on occupancy of the 175th unit, the 450th unit, the 675th unit, and on completion of the development. The findings of the traffic count surveys shall be submitted to the Planning Authority within a period of two months from the date of the traffic count, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interest of road safety.

18. No housing units of the development shall be occupied unless and until the existing 30 miles per hour speed limit has been extended along the frontage of the site on the A199 from the existing 30 mph limit at the New Strawberry Corner Roundabout to the eastern side of the new priority access junction.

Details of the proposed extension to the existing 30 miles per hour speed limit shall be submitted to and approved in advance by the Planning Authority. These measures shall be implemented in accordance with the details as approved by the Planning Authority.

Reason:

In the interest of road safety.

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

Reason:

In the interests of road safety.

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

The approved Construction Method Statement shall be fully complied with during the construction phase of the development.

Reason:

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

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

Reason:

In the interests of road safety.

22. Prior to the commencement of development details of the provision of the following footway improvements shall be submitted to and approved in writing by the Planning Authority:

(a) a continuous 3 metre wide footway on the south side of the A199 over the full extent of the new 30 mph speed limit (i.e. from the existing

roundabout at Strawberry Corner to the new 30 mph speed limit on the Eastern side of the proposed priority access junction on the A199.

The details shall include a timetable for the provision of the new footway.

The new footway shall thereafter be provided in accordance with the details so approved.

Reason:

In the interests of road safety.

23. Prior to the commencement of development details of the erection of a 1.2 metre high natural stone wall along the northern boundary of the site shall be submitted to and approved in writing by the Planning Authority. The details shall include a timetable for the erection of the new stone wall. The wall shall thereafter be erected in accordance with the details so approved.

Reason:

To integrate the development into its surroundings, in the interests of the visual amenity of the area.

24. Prior to the erection of any residential units full details of all noise mitigation measures shall be submitted to and approved in advance by the Planning Authority. The mitigation measures shall include, but may not be limited to:

- a) the erection of an acoustic barrier comprising an acoustic fence atop an earth bund along most of the southern boundary of the site, adjacent to the A1 trunk road; and
- b) the erection of a localised acoustic barrier, e.g. 1.8m high close-boarded timber fence, around any private garden exposed to road traffic noise from the A199.

The details to be submitted shall also include a timetable for the implementation of all of the proposed noise mitigation measures.

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

Reason:

To ensure an appropriate level of noise mitigation measures in the interests of the amenity of the future occupants of the site.

25. Prior to the commencement of development, details of all areas of public open space shall be submitted to and approved in writing by the Planning Authority. The details shall show the provision of bins and benches within the public open space and a recreational path network, including a circular route, both connecting to and around the large area of open space indicated for the southeast part of the application site. The submitted details shall include a timetable for the provision of all areas of open space, including the bins and benches and recreational path network, and proposals for their future maintenance.

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

Reason:

In the interests of the amenity of the area.

26. 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 hereby approved.

27. Prior to the commencement of development the following requirements shall be complied with:

- a) A report of findings arising from the further proposed intrusive site investigations, including the results of any gas monitoring undertaken, shall be submitted to and approved by the Planning Authority;
- b) A layout plan which identifies appropriate zones of influence for the recorded mine entries on site, and the definition of a suitable 'no-build' zones, shall be submitted to and approved by the Planning Authority ;
- c) A scheme of treatment for the recorded mine entries, if identified on site, shall be submitted to and approved by the Planning Authority; and
- d) A scheme of remedial works for the shallow coal workings, together with a timetable for the implementation of any identified remedial works, shall be submitted to and approved by the Planning Authority.

The remedial works shall thereafter be fully implemented in accordance with the details so approved.

Reason:

To secure the necessary report of findings for the shallow coal workings and the mine entries, together with the implementation of the necessary remedial works, in order to ensure that development does not occur above or too close to these mining hazards.

28. Prior to the commencement of any development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved by the Planning Authority, following consultation with SEPA.

All development shall thereafter be carried out in accordance with the CEMP so approved.

Reason:

To control pollution of air, land and water and to ensure that waste is managed in a sustainable manner

29. Prior to the commencement of development:

a) evidence to prove that the SUDS proposal is adequate and acceptable for the site shall be submitted to and approved by the Planning Authority, following consultation with SEPA. The evidence shall include calculations using the Simple Index Approach (SIA) as described in section 26.7.1 of the SUDS Manual C753. It shall also include a Surface Water Drainage Assessment, in accordance with the 'Water Assessment and Drainage Assessment Guide' produced by the SuDS Working Party. The Surface Water Drainage Assessment shall include: details of pre and post development flows entering the Ravenshaugh Burn; and the capacities of the culverts on the Ravenshaugh Burn to ensure there is no increase to flood risk downstream. The Assessment shall also encompass the whole development area approved by planning permission in principle 14/00903/PPM; and

b) a timetable for the implementation of the SUDS proposal shall be submitted to and approved by the Planning Authority, following consultation with SEPA.

The SUDS scheme shall thereafter be implemented in accordance with the evidence and timetable so approved.

Reason:

To ensure adequate protection of the water environment from surface water run-off.

30. Prior to the commencement of development details of any field drains or culvert within the application site shall be submitted to and approved in writing by the Planning Authority. Unless otherwise approved in writing by the Planning Authority, there shall be no development on top of any field drain or culvert within the application site.

Reason:

In the interests of minimising the risk of flooding.

31. 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.