

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 19 May 2020  
**BY:** Head of Development  
**SUBJECT:** Application for Planning Permission for Consideration

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Application No. **19/01321/AMM**

Proposal Approval of matters specified in conditions of planning permission in principle 18/00485/PPM - Formation of infrastructure associated with proposed new primary school, sports playing fields, sports changing facility and future proposed residential development including ground improvement, earthworks, access roads, foot & cycle paths, services and drainage

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

Applicant Persimmon Homes East Scotland Ltd

**RECOMMENDATION** **Consent Granted**

## **REPORT OF HANDLING**

### **PROPOSAL**

Although this application is for the approval of matters specified in conditions of planning permission in principle 18/00485/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares. Accordingly, the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

In October 2019 following the conclusion of a Section 75 Legal Agreement to secure education and affordable housing contributions and a land transfer, as well as financial contributions towards allotment provision and transportation interventions, and either provision of, or financial contributions towards, sports pitches, changing room facilities, planning permission in principle 18/00485/PPM was granted for a mixed use development comprising residential development, education, business, industry, storage and distribution, innovation hub (including class 2,3,4,5 and 6), employment uses, community facilities, residential neighbourhood centre (including class 1,2,3 and 10 uses), playing fields, changing facilities, public park(s) and associated works on some 116.5 hectares of land at Craighall to the south of Musselburgh, allocated by Proposal MH1 of the adopted East Lothian Local Development Plan 2018 (ELLDP 2018) for mixed use development.

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

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

The site to which this application relates comprises part of Area 1 of the MH1 allocation, specifically the site for the new primary school, sports pitches and changing facilities, future housing land and a SUDS area.

Through this application, approval of matters specified in conditions of planning permission in principle 18/00485/PPM is sought only for the formation of infrastructure, specifically in respect of that required for a future proposed new primary school, sports pitches and sports changing facility on the land of the application site; although elements of the infrastructure would also serve future residential development within the wider Area 1 part of the MH1 allocation. The proposed infrastructure comprises of ground improvement and earthworks, utilities works, the formation of access roads, foot and cycle paths and a SUDS basin.

This application has been submitted as the S75 Legal Agreement attached to planning permission in principle 18/00485/PPM requires not only the transfer of title of the land required for the new primary school, sports pitches and sports changing facility, but also that the land on which they would be built be remediated (i.e. ground stabilisation and levelling works), accessible (roads and footpaths provided to an adoptable standard) and serviced prior to its transfer.

Detailed applications for a new primary school, playing fields, sports changing facility and residential development would be the subject of separate future applications for approval of matters specified on conditions of planning permission in principle 18/00485/PPM.

The proposed ground improvement and earthworks comprise of a site wide 'cut & fill' exercise (ground remediation) which is required to create platforms for the future proposed new primary school, sports pitches and sports changing facility.

The proposed utilities works comprise of the erection of a new electricity substation and a new gas governor. The proposed electricity substation would be positioned centrally within the site adjacent to the future school site. The proposed substation would be of brick construction and would measure some 4m by 4m by 4.23m high to the ridge of its pitched pitched roof. The proposed gas governor would be positioned in the northeast corner of the site, would be of green coloured GRP construction and would measure some 2.65m by 1.95m by 2.15m high.

It is proposed to realign and create a new junction on the B6415 public road on its approach to Old Craighall village such that road access to the village would be maintained. A new length of road would be formed into the application site extending westwards to serve a future school, sports pitches and sports changing facilities on the application site. In the future this length of road would be extended southwards into the application site and would reroute traffic around Old Craighall village and would serve the wider Area 1 part of the MH1 allocation. Also proposed is the formation of a 3.5m wide cycle/footway which would form part of the Council's Segregated Active Travel Network. This would run under the A1 underpasses, through the application site in a northwest-southeast direction and also southwards to the southern point of the application site, and in the future would serve to link

the MH1 allocated site to surrounding areas.

The proposed SUDS basin would be formed at the southeastern part of the site on the southern site of a length of the proposed access road. It would be enclosed with a bow top fence and landscaped.

Since the registration of the application revised drawings and additional Flood Risk Assessment documents have been submitted.

### **DEVELOPMENT PLAN**

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

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

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) relevant to the determination of the application.

Proposal MH1(Land at Craighal) and Policies DP2 (Design), DP9 (Development Briefs), NH10 (Sustainable Urban Drainage Systems), NH11 (Flood Risk), CH4 (Scheduled Monuments and Archaeological Sites), CH5 (Battlefields), T2 (General Transport Impact) and T3 (Segregated Active Travel Corridor) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

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

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

### **REPRESENTATIONS**

One written representation to the application has been received, which is in support of the proposed development, stating it will be of local benefit.

### **COMMUNITY COUNCIL COMMENTS**

Musselburgh and Inveresk Community Council have not commented on the application.

### **PLANNING ASSESSMENT**

By the grant of planning permission in principle 18/00485/PPM approval has been given for the principle of a mixed use development of the allocated land at Craighall. There can therefore be no objection in principle to the proposed infrastructure associated with that mixed use development of the Craighall site.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development and the landscaping of and means of access to the site. In this regard the detailed proposals have to be considered against relevant development plan policy, the Council's approved Development Brief for the MH1 allocation and the indicative Craighall Masterplan and conditions attached to planning permission in principle 18/00485/PPM.

By virtue of their size, scale, proportions, positioning, form and materials, the proposed ground improvement and earthworks, utilities works, formation of access roads, foot and cycle paths and the SUDS basin are all appropriate for their locations, in keeping with their surroundings and acceptable to their purpose of serving the mixed use development of Craighall.

Detailed site levels drawings have been submitted with the application showing the ground levels of the different development platforms that are proposed within the site for the land of the future new primary school, sports pitches and sports changing facility. Extensive cut and fill would be required to create the proposed platforms. However those drawings do not contain the ground levels of the existing ground that is outwith, but adjacent to, the application site. It is not therefore possible to clearly determine what impact the proposed change in ground levels would have on that adjacent land. For example, were the ground levels of one of the development platforms to be increased in height, then there is the potential that a development on it may well have an adverse effect on the privacy and amenity of neighbouring land, particularly if that land were in residential use. It would therefore be prudent to impose a condition requiring final site setting out details to be submitted to and approved by the Planning Authority. Those details should include finished ground levels of the development relative to existing ground levels of the site and of adjoining land and building(s).

By its nature and by its positioning the other proposed infrastructure works would not result in any harm to any neighbouring land use or to the privacy or amenity of any neighbouring residential property.

**The Council's Service Manager - Strategic Asset & Capital Plan Management**, in his role in managing the Council's schools estate, advises that he is content with the 'cut & fill' works to create platforms for the future proposed new primary school, sports pitches and sports changing facility, the positioning of the access road to the school and of the cycleway/footway and the positioning of the utilities, servicing and drainage.

**The Council's Service Manager - Sports, Countryside and Leisure** confirms he is satisfied with the future location of the sports pitches and changing provision.

The applicant has submitted detailed landscaping plans for the infrastructure site, which sets out the landscaping proposals for the site. It shows that extensive grass and tree planting would take place around the new lengths of road and cycle/pedestrian paths and tree planting and grasslands formed around the SUDS basin.

**The Council's Landscape Project Officer** advises that the proposed scheme of landscaping is acceptable.

On all of the foregoing considerations of layout, design, amenity and landscape, the proposed infrastructure development is consistent with Policies DP2 and DP9 of the adopted East Lothian Local Development Plan 2018 and the Council's approved Development Brief for the MH1 allocation and the indicative Craighall Masterplan attached to planning permission in principle 18/00485/PPM.

Condition 9 of planning permission in principle 18/00485/PPM requires a Construction Method Statement or Construction Environmental Management Plan to be submitted prior to the commencement of development of Areas 1 as identified within the Development Brief of the MH1 allocation, which area forms part of the application site. A Construction Method Statement relating to the proposed infrastructure works has been submitted with the application.

**The Council's Public Health and Environmental Protection Officer** raises no objection to the proposed development. He has carefully considered the Construction Method Statement with the mitigation measures proposed. If those measures were implemented then the Public Health and Environmental Protection Officer is satisfied that the amenity of nearby residential properties would not be harmed by the proposed infrastructure works.

The principles of the means of accessing Area 1 of the MH1 allocation, to which this application relates, is already decided by the grant of planning permission in principle 18/00485/PPM. These are that a new junction would be formed on the B6415 public road on its approach to Old Craighall village. A new length of road would be formed into the Area 1 site and from this a new access road would be formed into the school site. The new length of road into the Area 1 site would in time would be extended and would reroute traffic around Old Craighall village (serving as a bypass around it) and would serve the wider Area 1 part of the MH1 allocation. These future works would be the subject of a further application. The new junction on the B6415 public road would continue to provide road access to Old Craighall village.

The submitted details for accessing the site are in accordance with these established principles of the means of accessing Area 1 of the wider mixed use development.

**The Council's Road Services** are satisfied with the proposed junction works, and the positioning of the proposed new lengths of road, footpaths and cycleway. They have perused the submitted Construction Method Statement and advise that it shows the site compound/storage and parking appears to be remote from the infrastructure works site and that a route needs to be identified to facilitate movement of construction plant/materials that would not harmfully impact on traffic using the B6415 public road. Therefore they recommend an addendum to the submitted Construction Method Statement should be submitted to address this.

Road Services also recommend that road safety audits be undertaken for the preliminary design of all roadworks, footways and cyclepaths proposed within the application, including works to the B6415, and that wheel wash facilities be provided during construction.

Road Services raised concern over the SUDS basin track, as a length of it would be formed over the future extension of the realigned B6415 public road. However the applicant has confirmed this is a temporary measure until such time as further detailed applications are submitted for the extension to the road. Road Services advise as long as this is temporary and that the section of SUDS access track is not disposed of to Scottish Water, which the applicant advises is the case, then this is satisfactory. The Council's Team Manager for Structures, Flooding and Street Lighting agrees with this position.

The requirement for an addendum to the submitted Construction Method Statement, for road safety audits and wheel washing facilities can competently be secured by the imposition of conditions on a grant of approval of matters specified in conditions, in which case Road Services raise no objection to the application.

In their routing, the cycle/pedestrian footpaths to be formed on the application site comply with the indicative Craighall Masterplan docketed to planning permission in principle 18/00485/PPM and will, when all in place provide a permeable network of connecting links for pedestrians and cyclists between the Craighall site and the adjacent residential areas of Musselburgh, Old Craighall and Newcraighall.

**The Council's Outdoor Access Officer** raises no objection to the proposed development, being satisfied with the network of paths being proposed within the site.

**Transport Scotland** raise no objection to the application.

On these foregoing transportation and other access considerations the proposed infrastructure development is consistent with Policies DP9, T2 and T3 of the adopted East Lothian Local Development Plan 2018, the Council's approved Development Brief for the MH1 allocation and the indicative Craighall Masterplan attached to planning permission in principle 18/00485/PPM.

**The Council's Environmental Health (Contaminated Land) Officer** advises that there is unlikely to be any contamination issues impacting on the proposals. However he recommends that there should be an assessment of any material used as fill during the earthworks proposed in the application to ensure it's free of contamination.

Part of the application site is within the wider designated area of the Battle of Pinkie.

Condition 4 of planning permission in principle 18/00485/PPM requires a Programme of Works (evaluation by archaeological trial trench) be undertaken and reported upon in accordance with a written scheme of investigation, prior to the commencement of development of Areas 1 as identified within the Development Brief of the MH1 allocation, which area forms part of the application site.

An Archaeological Works Written Scheme of Investigation Report has been submitted with the application, and **the Council's Archaeology/ Heritage Officer** confirms that the report is generally to an acceptable standard. The Archaeology/ Heritage Officer further advises however that the Programme of Works required in accordance with Condition 4 of planning permission in principle 18/00485/PPM is yet to be carried out.

**Historic Environment Scotland** have been consulted on the application and they advise that the submitted Archaeological Works Written Scheme of Investigation Report contains a clear statement that an archaeological programme of works in advance of development is still required.

The requirement to submit the Programme of Works is embodied in Condition 4 of planning permission in principle 18/00485/PPM and therefore remains in force, and thus there is no requirement to also secure this again through a condition attached to this approval of matters specified in conditions application. On this consideration the proposed development does not conflict with Scottish Planning Policy: June 2014, Planning Advice Note 2/2011: Planning and Archaeology and with Policy CH5 of the ELLDP.

Part b) of Condition 6 of planning permission in principle 18/00485/PPM requires details of SUDS provision and any required flood risk measures be submitted for the written approval of the Planning Authority, in consultation with the Scottish Environment Protection Agency (SEPA).

The proposed SUDS basin would be formed at the southeastern part of the site on the southern side of the new length of access road into the site, which would be taken from the B6415 public road (as it would be realigned in the manner proposed). The proposed new length of access road into the site would be formed through part of a functional floodplain and thus an area at risk from flooding. As a result of this a flood compensatory storage area is proposed to be formed on the north side of the new length of access road. Flood routing pipes would be formed underneath the new length of access road so flood waters can pass to the north of the access road into the compensatory storage area to prevent any flooding occurring on adjacent land.

**SEPA** have been consulted on the SUDS proposal and the proposed flood risk measures.

SEPA advise they have no objection to the proposals, content with the size and location of the SUDS basin and also satisfied that the compensatory flood storage area and flood routing pipes would ensure any potential floodwater would be directed to and stored such that the surrounding land of the application site would not be at risk from flooding.

**The Council's Team Manager for Structures, Flooding and Street Lighting** has considered the applicant's SUDS basin and flood prevention measures and confirms they are acceptable and thus he raises no objection to the proposals.

**Scottish Water** raise no objection to the application.

On these considerations of SUDS design, flood risk and drainage the proposals are consistent with Policies NH10 and NH11 of the adopted East Lothian Local Development Plan 2018.

Condition 10 of planning permission in principle 18/00485/PPM requires that applications for approval of matters specified in conditions shall include:

- (i) a scheme of treatment for the recorded mine entries;
- (ii) a scheme of remedial works for the shallow coal workings; and
- (iii) timescales for the implementation of those remedial works.

A Coal Mining Risk Assessment and Remediation Method Statement Report (the report) has been submitted with the application.

**The Coal Authority** have been consulted on the submitted report, and advise that it confirms that shallow mine workings were not investigated on this particular part of the site, specifically due to them not representing any risk to ground instability. The Coal Authority state that these findings correspond with their information on shallow mine workings and therefore these pose no risk to development.

However, The Coal Authority states that the report does go on to confirm that one of the two recorded mine entries on the application site has been located, with only one being investigated. The other has not been investigated as it requires an overhead power line to be either diverted or powered down to allow investigations to confirm the position and subsequent investigation of it. On the basis that the second mine entry has yet to be investigated and that both mine entries may require to be treated the requirements of Condition 10 of planning permission in principle 18/00485/PPM have not been satisfied. Therefore site investigation and remedial works should be submitted for the prior approval of the Planning Authority and thereafter implemented prior to the commencement of development, a requirement which can be imposed as a condition on a grant of approval of matters specified in conditions.

**Network Rail** raise no objection to the proposed development.

#### **RECOMMENDATION:**

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

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

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving finished ground levels of the development relative to existing ground levels of the site and

of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing.

Reason:

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

- 2 Prior to the commencement of development: a) a scheme of intrusive site investigations for the site; b) a scheme of treatment for the recorded mine entries; and c) a scheme of remedial works, shall be submitted to and approved by the Planning Authority.

Prior to the commencement of development (excluding groundworks and site regrading) the scheme of intrusive site investigations shall be undertaken and any required treatment and remedial works identified shall be implemented in accordance with the details so approved.

Reason:

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

- 3 The mitigation measures identified in Part 3: Dust, Noise and Vibration Control Measures of the 'Construction Method Statement, Land at Craighall, Musselburgh: School Site Infrastructure Works' document that is docketed to this approval of matters specified in conditions shall be implemented in full throughout the duration of the works of the development hereby approved.

Throughout the duration of the construction works of the development hereby approved, any works that result in noise that is audible at the application site boundary shall be restricted to the following hours of operation only:

(i) Monday to Friday - 0730 hours to 1800 hours;

(ii) Saturday - 0800 hours to 1300 hours.

Otherwise hours of construction works shall be:

(i) Monday to Friday - 0730 hours to 1800 hours;

(ii) Saturday - 0800 hours to 1400 hours;

(iii) Sunday - 0800 hours to 1400 hours.

Reason:

In the interests of the amenity of the area.

- 4 Prior to the commencement of development, details of the source and nature of any material (both site-won and imported) used for earthworks on site shall be submitted to and approved by the Planning Authority. The detail shall include information of any testing carried out to confirm that the material is free of contamination.

Reason:

To ensure that the material to be used is clear of contamination.

- 5 The area for the site compound/storage and parking for the proposed development as shown in the docketed 'Construction Method Statement, Land at Craighall, Musselburgh: School Site Infrastructure Works' document are not hereby approved. Instead, an addendum to that docketed document shall be submitted to and approved by the Planning Authority prior to the commencement of development, which shall show revised details for the site compound/storage and parking.

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

Reason:

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

- 6 The length of the proposed SUDS basin access track that would be formed over the future extension of the realigned B6415 public road as shown dotted on the docketed drawings shall only be in place temporarily until the future road extension proposed for the Old Craighall bypass (realigned B6415 public road) is completed. The applicant shall not dispose of that section of SUDS access track to Scottish Water.



Reason:

To ensure the future delivery of the new Old Craighall bypass.

- 7 (a) Prior to the commencement of development a Stage 1 and Stage 2 Road Safety Audit shall be submitted to and approved by the Planning Authority, which shall be undertaken for the preliminary and detailed design of all roadworks, footways and cycle paths within the development hereby approved, including works to the B6415 public road and shall include an implementation programme describing when measures identified in the audits will be provided in relation to construction of the proposed development.
- (b) Immediately following completion of the development, the date of which shall be provided in writing to the Planning Authority, a Stage 3 Road Safety Audit - Post Opening shall be submitted to and approved by the Planning Authority.
- (c) 12 months following approval of the Stage 3 Road Safety Audit a Stage 4 Road Safety Audit shall be submitted to and approved by the Planning Authority.

All the Road Safety Audits shall be carried out in accordance with GG119 Road Safety Audit Rev 1. The Road Safety Audits shall include the proposed roads, junctions, footways, cycle ways, pedestrian crossings and double 'D' islands where applicable.

Reason:

In the interests of road safety.

- 8 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.

- 9 All new planting, seeding and turfing as shown on the docketed landscape layout drawing nos. 143.123.01a, 143.123.02a, 143.123.03a, 143.123.04a, and 143.123.05a shall be carried out in the first planting and seeding season following the completion of the development hereby approved, and 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 size and species, unless the Planning Authority gives written consent to any variation.

No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.