

PLANNING COMMITTEE

24 JUNE 2020

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MINUTES OF THE MEETING OF THE PLANNING COMMITTEE

TUESDAY 19 MAY 2020
VIA VIDEO CONFERENCE FACILITIES

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Committee Members Present:

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

Other Councillors Present:

Councillor S Currie
Councillor F Dugdale
Councillor A Forrest

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Mr C Grilli, Service Manager – Legal
Ms E Taylor, Manager Planning Delivery
Ms L Ritchie, Senior Planner
Ms J McLair, Planner
Mr D Taylor, Planning Officer
Mr D Irving, Planning Officer
Mr G Marsden, Planning Obligation Officer,
Mr M Greenshields, Senior Roads Officer
Mr D Northcott, Team Manager – Structures/Flooding
Ms L Gillingwater, Team Manager – Democratic Services
Ms F Currie, Committees Officer
Ms P Gray, Communications Adviser

Clerk:

Ms A Smith

Visitors Present and Addressing the Committee:

Item 2 – Mr R Holder, Ms A Patton, Mr A Hadden
Item 3 – Mr I Slater
Item 4 – Mr J Fraser
Item 6 – Mr N Davidson

Apologies:

None

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 4 MARCH 2020

The minutes of the meeting of the Planning Committee of 4 March 2020 were approved.

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

A report was submitted in relation to Planning Application No. 15/99537/PPM. Keith Dingwall, Service Manager – Planning, presented the report, summarising the key points. The report recommendation was to grant consent.

Mr Dingwall and other officers responded to questions from Members. On the timescale for delivery of the affordable housing Mr Dingwall advised that discussions were ongoing with the Community Housing Service, this was clearly a key priority for the Council. In relation to the differing amounts for the rail contribution he explained that this was worked out depending on the costs of the works; the level of contribution had been reassessed and reduced. Regarding timescales for provision of land for the secondary school, he advised that the Education Service was not certain how Covid-19 would affect timings but felt there would be spare capacity at Musselburgh Grammar until the new school was built. As regards sufficient flexibility within the process, the Convener said that considerable discussion was ongoing, officers were trying to tie in the school and housing; it was a tight timeframe but there was confidence that the school could be delivered to meet the housing requirements. Mr Dingwall added that clearly there had to be flexibility, he drew attention to condition 1 which referred.

On queries about Network Rail's financial contribution and a platform extension programme, Graeme Marsden, Planning Obligation Officer, indicated there was not a fixed programme for platform extensions, however, the Council would retain the money for a minimum of 10 years after the final instalment. The Council was working with Network Rail. Regarding the active travel corridor, Marshall Greenshields, Senior Roads Officer, stated that although this would be going through the whole county, concentration would be to the west; he would be happy to go into more detail outwith the meeting. As regards health provision on site, Mr Dingwall stated that through the Local Development Plan (LDP) process health colleagues were consulted; no issues had been raised. The Convener added that although health was outwith the Council's control in planning terms, in delivering a site of this size there was a need to ensure availability of medical facilities.

Robin Holder of Holder Planning, agent for the applicant, indicated he had nothing to add to the officer's presentation.

Ann Patton representing Wallyford Community Council requested clarification on the advice provided regarding medical capacity. Mr Dingwall reiterated that through the LDP process the NHS were consulted on all housing sites and no issues had been raised. Responding to Alister Hadden, also from Wallyford Community Council, he clarified the location of the new primary and secondary schools.

Local Member Councillor McGinn welcomed the application. He reiterated that medical provision needed addressed. Excellent work had been done on the primary school, hopefully the new secondary school would progress. He would be supporting the application.

Local Member Councillor McLeod echoed his colleague's comments. He would be supporting the report recommendation.

Local Member Councillor Dugdale, not a member of the Planning Committee, welcomed the application. She echoed Councillor McGinn's comments about health provision.

Councillor McMillan also welcomed the report. He welcomed the construction industry jobs and would encourage local job opportunities. He would be supporting the application.

Councillor Currie, not a member of the Planning Committee, stated it was crucial that work on this site continued. There were ongoing concerns about primary care facilities. Musselburgh Primary Care Centre's capacity covered Musselburgh, Wallyford and Whitecraig, already a large area. This new site was further away from Musselburgh and would not have any primary care service, there would be a strain on existing facilities; more localised services were needed.

Councillor Innes welcomed the application which would be of huge benefit to the people of Wallyford. He shared the view of local members on health provision, this was a missed opportunity. He was disappointed that NHS Lothian felt that a facility was not needed here, this should still be pursued. A substantial community had substantial community needs which included appropriate health provision. He would be supporting the recommendation.

The Convener ended the discussion. He welcomed the commitment to this development and that work would be progressing. He would be supporting the recommendation to grant planning permission as set out in the report.

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

For: 12
Against: 0
Abstentions: 0

Decision

The Committee agreed 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.

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 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.

APPENDIX D - 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, 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.

3. PLANNING APPLICATION NO. 19/00620/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS 1D, 1H, 1L AND 1N (DETAILS OF ROAD, DRAINAGE AND LANDSCAPE INFRASTRUCTURE FOR PHASE 1) OF PLANNING PERMISSION IN PRINCIPLE 14/00768/PPM – FOR REMEDIATION OF SITE AND CREATION OF NEW SETTLEMENT COMPRISING RESIDENTIAL, EMPLOYMENT, EDUCATION AND COMMERCIAL USES WITH PARK AND RIDE AND RAIL HALT FACILITIES AND ASSOCIATED WORKS AT BLINDWELLS

A report was submitted in relation to Planning Application No. 19/00620/AMM. Julie McLair, Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Ms McLair and other officers responded to questions. Mr Dingwall stressed that this application was solely for the infrastructure so some details for other aspects could not be provided at this stage. On school provision and capacity, Mr Marsden advised that academic year 2023/24 was the current projection for the new primary school on site; based on current projections there was sufficient capacity at Cockenzie Primary School to temporarily host pupils until 2024. Several Members raised concerns about the 40mph speed limit on the A198, stating that 30mph would be more appropriate. Mr Greenshields clarified the response from Road Services for 40mph stating that there was no frontage on that piece of road, there would be controlled crossing points, so speeds would naturally be lower than 40mph. Regarding the Millerhill roundabout and possible improvements required due to increased demand, Mr Greenshields advised that future plans included a set of lights and crossroads.

Ms McLair clarified, in relation to the Environmental Protection Manager's comments that these were linked to the previous planning permission in principle application so conditions regarding that application applied and would be brought forward. Regarding primary care consultation Mr Dingwall stated this had been carried out for the planning permission in principle application so as the matter had previously been decided there would not be further consultation. On ensuring joined up cycleways/footpaths across the entire site she, and Mr Greenshields, said that across all developments on this site good connections would be ensured. In relation to geo-environmental and gas assessment reports, Ms McLair confirmed that these had been reviewed by the Contaminated Land Officer who was content that there was no issue regarding gas monitoring leakage.

On the burial strategy and a site at Blindwells, McMcLair stated that this application was purely for the infrastructure for phase 1, so this element did not feature at this stage. The Convener added that there were plans to create a new cemetery at the west of the county; provision at Blindwells would be used until this was ready but reiterated that this was not part of this application. Regarding access to the new site from the southern roundabout and capacity queries, Mr Greenshields said that discussions were taking place with Transport Scotland; timescales for further improvements were ongoing, the final solution would be to put signals on that roundabout.

Iain Slater of Hargreaves Services Limited, the applicant, responded to points raised. In relation to primary care, he advised that work was ongoing and a site had been identified at the end of what would be the High Street. As regards schooling, plans were on course to deliver the site on time by 2023/24. In respect of the roundabout, considerable study had been done, work was ongoing with Road Services and further details would come forward in due course. On the burial ground, he confirmed that this would be situated on site, it was a brownfield site and every section had to be remediated.

Mr Slater responded to questions. Regarding local employment opportunities he advised that Hargreaves did not directly hire people but contractors had a policy to employ locally where possible. On modern construction methods he indicated that in relation to modular build a number of systems had been looked at; there was a supplier in North Yorkshire but unfortunately the building code in Scotland was different and they could not supply those houses but this was something actively being looked into. The other option would be to build a factory on site for the build. In relation to monitoring contractors regarding local employment he advised that this would be done on a monthly basis by the HR department. On primary care he clarified that this would be in the next phase of development, he gave further details of the proposed location adding that it was hoped to provide a multi-use health type centre if possible; work was ongoing with the NHS. Regarding the overall masterplan, Mr Slater stated the intention was to keep access to the site as green as possible so some areas would not need full remediation. Hargreaves owned the whole site and would deliver all the infrastructure and services and then sell off sections to housing developers.

Local Member Councillor McLeod welcomed the application and progress with this site; he would be supporting the recommendation in the report.

Local Member Councillor McGinn also expressed support for the application. He stressed that a joined up approach was key in relation to provision of cycleways, footpaths, etc. He welcomed the much needed sports provision. He noted the comment in respect of the gas survey works.

Local Member Councillor Dugdale, not a member of the Planning Committee, agreed with the other local members. She welcomed progress with this development.

Councillor O'Donnell expressed support for the application. She was encouraged to hear that developers were discussing primary care services. She had concerns however about speed limits and pedestrian safety, she felt that a 30mph limit would be more appropriate than 40mph; she suggested an amendment to review these speed limits.

Councillor Bruce indicated he would be willing to second Councillor O'Donnell's proposed amendment regarding speed limits. He would be supporting the report recommendation. This was an exciting proposal presenting many opportunities.

Councillor Currie, not a member of the Planning Committee, also welcomed discussions by the developer regarding heath provision. It was important that this site progressed, it would bring many employment opportunities and a considerable number of affordable houses.

Councillor Innes welcomed progression with this development, he would be supporting the application. Blindwells had originally been selected when a new large area was needed that would protect original communities. There were many key messages in respect of this site.

Further discussion and advice from officers took place in relation to speed limits. Mr Dingwall reiterated that there was a condition on the previous planning in principle application which had approved a 40mph speed limit. He noted the level of concern expressed however and the desire for a reduction to a 30mph limit; he suggested that this matter could be taken offline for further discussion with the developer or, if Members so wished, they could impose an additional condition to the grant of planning permission.

There was unanimous agreement from Members for the amendment, proposed by Councillor O'Donnell and seconded by Councillor Bruce, to review speed limits.

The Convener then moved to the vote on the report recommendation (to grant consent) subject to inclusion of the above additional condition:

For: 12
Against: 0
Abstentions: 0

Decision

The Committee agreed to grant planning permission 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 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.

- 3 None of the residential units approved by planning permission in principle 14/00768/PPM shall be occupied unless and until the speed limit on the section of the A198 road immediately to the west of the application site has been reviewed, with consideration given to the implementation of speed reducing measures and the introduction of a 30mph speed limit. Details of any proposals, including a timetable for implementation, shall be submitted to and approved in advance by the Planning Authority, and be implemented and installed thereafter in accordance with the details so approved.

Reason

In the interests of road and pedestrian safety.

4. **PLANNING APPLICATION NO. 19/00900/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 14/00768/PPM – ERECTION OF 146 HOUSES AND ASSOCIATED WORKS AT BLINDWELLS**

A report was submitted in relation to Planning Application No. 19/00900/AMM. David Taylor, Planning Officer, presented the report, summarising the key points. The report recommendation was to grant consent.

Officers responded to questions. On safe routes to school, Mr Taylor advised that the infrastructure, which included this aspect, formed part of the wider Blindwells settlement. Mr Dingwall stated this had been an important matter of the planning permission in principle application; there would be safe routes to schools and these would be delivered at the right time. In relation to safe crossing points Mr Greenshields said there would be traffic calming and a 20mph speed limit so there would be opportunities for crossing points. Mr Dingwall added that through the previous application crossing tables would be provided so there would be safe access to schools. Regarding noise of construction traffic from the A198 and mitigation measures, he said that a noise assessment had been submitted which concluded that glazing to western/southern properties would give sufficient amenity; it was not therefore necessary to include a separate planning condition. In relation to noise from gardens he clarified that the noise assessment had not specified any additional measures. On affordable housing, Mr Taylor confirmed that the 30% figure quoted in the report was correct.

James Fraser of EMA Architects, agent for the applicant, indicated he had nothing to add to the officer's presentation.

Local Member Councillor McLeod welcomed the report and supported the recommendation.

Local Member Councillor McGinn reiterated his points made during the previous application regarding travel, cycleways and footpaths. He welcomed and supported the application.

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

For: 12
Against: 0
Abstentions: 0

Decision

The Committee agreed that approval of matters specified in conditions for the proposed residential development be granted subject to the following conditions:

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

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

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

Reason:

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

- 2 Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street. Notwithstanding that shown on the docketed site plan the houses denoted with an asterix shall have dual frontages. Otherwise 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.

Reason:

In the interests of safeguarding the character and appearance of the development.

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

Details of the form and appearance of all boundary treatments, including the 1.8m high fences within the rear gardens of the houses, shall be submitted to and approved by the Planning Authority prior to the occupation of the first house.

A timetable for the provision of those boundary treatments shall be submitted to and approved in advance by the Planning Authority and shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

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

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

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.

- 5 A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including parking, routes to/from site and delivery times) and shall include hours of construction work. Temporary measures shall be put in place to control surface water drainage during the construction of the SuDS.

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

Reason:

In the interest of road safety.

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

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

(ii) driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11m length;

(iii) within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

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

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

(vi) where there is no footway provision and the road will act as a shared surface, road design should emphasise this e.g. change of level and surface treatment and should be augmented by traffic calming or signage as appropriate. This could include differential surface treatment to indicate to drivers and pedestrians where pedestrians will be located. Details of this should be submitted to and approved by the Planning Authority;

(vii) A Travel Information Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority prior to construction commencing. The Travel Information Pack will include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents.

Reason:

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

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

Reason:

To minimise the environmental impact of the develo

9 Prior to the commencement of development confirmation from Scottish Water shall be provided that demonstrates that there is an available connection to the public sewer and that Scottish Water will accept waste from this development. If Scottish Water cannot accept foul drainage from this site, proposals for alternative arrangements should be provided, prior to the commencement of development and SEPA should be re-consulted.

Reason:

In the interests of ensuring that foul drainage from the site can be accommodated.

10 Unless otherwise agreed by the Planning Authority, no house shall be occupied unless and until the amended Phase 1 Drainage Strategy (Waterman) June 2019 has been implemented to the satisfaction of the Planning Authority, and confirmation has been received from the Planning Authority that the Phase 1 Drainage Strategy (Waterman) June 2019 has been implemented to their satisfaction.

Prior to the commencement of development a Surface Water Management Plan for the housing site hereby approved, with details of all SuDS features/structures to be constructed on the site shall be submitted to and approved by the Planning Authority. This Surface Water Management Plan must demonstrate how onsite SUDs features will integrate with the Blindwells Phase 1 Drainage Strategy

(Waterman) June 2019 (as amended on 6 February 2020) and should include technical approval of the Surface Water Management Plan by Scottish Water. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

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

- 11 Prior to the commencement of development a detailed condition survey of the construction access route from the Bankton 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 each anniversary of the commencement of development. Any damage identified as a result of construction activities shall be repaired or resurfaced by the developer in compliance with the Council's specifications and requirements at no cost to the Council as Roads Authority.

Reason:

In the interests of road safety.

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

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

Year 2020/21	-	24 residential units
Year 2021/22	-	73 residential units
Year 2022/23 to 2030/31	-	97 residential units per annum
Year 2031/32 to 2034/35	-	122 residential units per annum
Year 2035/36	-	102 residential units
Year 2036/37	-	40 residential units

(b) If fewer than the specified number of residential units is completed in any one year then those shall be completed instead at Year 2036 or beyond and not added to the subsequent Year.

Reason:

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

- 13 There should be at least one dedicated EV charging point per driveway. Developers should engage with electricity providers to ensure that the entire electricity supply infrastructure will have sufficient capacity to enable all chargepoints to operate simultaneously.

Reason

In the interests of sustainability.

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

Reason

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

- 15 Prior to commencement of development, a Quality Audit to independently assess walking, cycling, access and road safety aspects within and around the development should be submitted and approved by the planning authority. This will be reviewed after construction is substantially complete and the developer required to make good any issues.

Reason

In the interests of road and pedestrian safety and to provide a safe route to schools.

- 16 Prior to the commencement of development, to ensure that the site is clear of contamination, a Geo-Environmental Assessment shall be carried out and the following information shall be submitted to and approved by the Planning Authority:

o Phase I - A preliminary investigation incorporating a desk study, site reconnaissance, development of a conceptual model and an initial risk assessment.

- o Phase II - Incorporating a site survey (ground investigation and sample analysis) and risk evaluation. It is required if the Phase I investigation has indicated that the site is potentially contaminated and the degree and nature of the contamination warrants further investigation.
- o Phase III - Where risks are identified, a Remediation Strategy should be produced detailing and quantifying any works which must be undertaken in order to reduce the risks to acceptable levels.

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

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

Reason:

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

- 17 Prior to the commencement of development details shall be submitted to and approved by the Planning Authority of overlying subsoil/topsoil to be provided to the front and back gardens of the houses hereby approved on a plot by plot basis and on all soft landscaping areas to ensure the provision of a layer of subsoil/topsoil of at least 600 mm in thickness. Thereafter the subsoil/topsoil shall be provided in accordance with the details so approved unless otherwise agreed in writing by the Planning Authority.

Confirmatory testing for both subsoil and topsoil materials is to be included within the Remediation Strategies being produced for the development site, with validation of these results being included within subsequent Verification Reports.

Reason

To ensure the provision of a suitable growing medium for garden areas and other areas of soft landscaping.

5. PLANNING APPLICATION NO. 19/01131/PM: ERECTION OF 32 HOUSES, 28 FLATS AND ASSOCIATED WORKS AT LAND AT WINDYGOUL SOUTH, TRANENT

A report was submitted in relation to Planning Application No. 19/01131/PM. Linda Ritchie, Senior Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Ms Ritchie along with Mr Greenshields responded to questions. Regarding energy efficient measures, Ms Ritchie advised that Springfield Properties had been made aware of the condition attached to the grant of permission regarding actions required to reduce carbon emissions but had still to provide the specifics. On whether 100% parking provision would be sufficient she advised that Road Services had been consulted and their parking standards did allow for this to reflect lower car ownership; this was similar to many other well connected sites. In relation to junction improvements at Elphinstone Road/Edinburgh Road Mr Greenshields clarified that this work would comprise upgrading existing signals to provide a more efficient use of that junction. On whether the flats would have a drying green area, Ms Ritchie clarified that all the flats had a garden area with open space that could be used as a drying area. Regarding supply of outdoor clothes drying facilities, given that the Council owned these properties, she said this would have to be pursued through the Community Housing Service, it was not a planning level decision.

Local Member Councillor McLeod expressed concern regarding health care provision. He also had concerns about traffic on the High Street in Tranent, volumes were increasing. He would nonetheless be supporting the recommendation in the report.

Local Member Councillor McGinn welcomed the application, it would benefit the community and he would be supporting it. He shared his colleague's concerns regarding traffic. He stressed that a Tranent by-pass needed to be given serious consideration.

Councillor McMillan made reference to the amount of detailed work undertaken as highlighted in the report. He would be supporting the recommendation.

Councillor Innes welcomed the affordable housing element. He referred to conditions 11 and 12 which would ensure that all roads and footpaths would be built to an adoptable standard. He would be supporting the application.

The Convener expressed support for these comments. He agreed that a Tranent by-pass was needed. He stated that the Council was delivering housing for the people of East Lothian and delivering Scottish Government's expectations but needed capital funding to deliver the infrastructure. He would be supporting the recommendation.

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

For: 12
Against: 0
Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to:

1. The undernoted conditions.
2. The satisfactory modification of the existing Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 which relates to planning permission in principle 18/00937/PPM, so that the definition of "planning permission" in the Agreement is also inclusive of this new detailed planning application.
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 satisfactorily modified by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to an insufficient provision of a community sports pitch, related changing facilities, allotments, paths provision, a lack of roads and transport infrastructure, a lack of sufficient primary and secondary school capacity, and the lack of provision of affordable housing contrary to Policies DEL1 and, as applicable Proposals TT1, TT2, ED4, CF1, OS6, HOU3, HOU4, OS5, and T32 of the adopted East Lothian Local Development Plan 2018.

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

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

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

Reason:

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

- 2 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.

- 3 Prior to the commencement of development, to ensure that the site is clear of contamination, a Geo-Environmental Assessment shall be carried out and the following information shall be submitted to and approved by the Planning Authority:

o Phase I - A preliminary investigation incorporating a desk study, site reconnaissance, development of a conceptual model and an initial risk assessment.

o Phase II - Incorporating a site survey (ground investigation and sample analysis) and risk evaluation. It is required if the Phase I investigation has indicated that the site is potentially contaminated and the degree and nature of the contamination warrants further investigation.

o Phase III - Where risks are identified, a Remediation Strategy should be produced detailing and quantifying any works which must be undertaken in order to reduce the risks to acceptable levels.

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

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

Reason:

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

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

(a) Housing completions on the application site and otherwise on the site of planning permission in principle 18/00937/PPM in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not cumulatively exceed the following completion rates, unless otherwise approved in writing by the Planning Authority:

Year 2020/21 - 30 residential units
Year 2021/22 - 118 residential units
Year 2022/23 - 60 residential units
Year 2023/24 - 105 residential units
Year 2024/25 - 105 residential units
Year 2025/26 - 60 residential units
Year 2026/27 - 60 residential units
Year 2027/28 - 23 residential units

(b) If fewer than the specified number of residential units is completed in any one year then those shall be completed instead at Year 2029 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.

- 5 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.

- 6 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of: the height and slopes of any mounding on or re-contouring of the site including SUDS basin/ponds details; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. Non-thorn shrub species should be located adjacent to pedestrian areas. The scheme shall specifically include:

- Hedge planting to front and side gardens as indicated on the drawing 'Boundary Treatments' numbered SL_PH1-003 rev E
- Hedge planting to the north side of the rear fences to plots 28-35
- Hedge planting to the rear edge of the footway to the distributor road
- Tree planting as indicated on the drawing 'Boundary Treatments' numbered SL_PH1-003 rev E
- Shrub planting underneath trees between parking bays

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.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development or occupation of any residential unit hereby approved, whichever is the sooner. Any trees or plants which die, are removed or become seriously damaged or diseased during the course of the development or within 10 years of the completion of the development 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 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.

- 7 A timetable for the provision of the erection of the boundary enclosures for the gardens of the houses and flats hereby approved shall be submitted to and approved in advance by the Planning Authority and development shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 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 Prior to the commencement of development, a Construction Method Statement which sets out how the impact of construction activity on the safety and amenity of the area will be mitigated shall be submitted to and approved by the Planning Authority.

The Construction Method Statement shall include details of:

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

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

Reason:

To retain control of the operation of construction in the interest of environmental and residential amenity.

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

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

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

Reason:

In the interests of ensuring sustainable travel patterns in respect of the residential development.

- 11 Prior to the commencement of development on site details demonstrating how the site can be serviced for waste collection shall be submitted to and approved in writing by the Planning Authority. The details shall include a swept path assessment of the roads based on a waste collection vehicle measuring 2.5 metres wide, 10 metres long with a 6.1 metres wheelbase and details of any amendments to the site layout required for the safe and efficient waste collection on the development.

Thereafter, development shall be carried out in accordance with the approved details.

Reason:

To ensure that waste vehicles can access and service the site.

- 12 The development shall comply with the following transportation requirements:

(i) All roads and paths shall conform to East Lothian Council Standards for Development Roads;

(ii) Driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;

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

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

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

Reason:

In the interests of road safety.

- 13 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces, and footpaths shall have been constructed on site in accordance with the docketed drawings.

Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and flats and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

- 14 Unless otherwise agreed in writing by the Planning Authority prior to the occupation of any residential unit, pairs of bus stops shall be provided on both sides of the primary spine road on the site of planning permission 19/00378/P, in accordance with details showing the number and locations of the bus stops to be submitted to and approved in advance of their construction by the Planning Authority.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the residential development.

6. PLANNING APPLICATION NO. 19/01321/AMM: 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 AT LAND AT OLD CRAIGHALL VILLAGE, MUSSELBURGH

A report was submitted in relation to Planning Application No.19/01321/AMM. Daryth Irving, Planning Officer, presented the report, summarising the key points. The report recommendation was to grant consent.

Mr Irving responded to questions. In relation to the route for construction traffic, which had not yet been identified, and the need to ensure that Old Craighall residents were inconvenienced as little as possible, he referred to the Construction Method Statement (CMS). He stated that as works would be focused at the northeast corner of the site there should be no need for traffic to go through Old Craighall at all. On queries about construction working on Sundays he advised that an assessment had been done based on the location of the site and the hours of work required; every site had to be assessed regarding its own position in relation to existing properties. The Environmental Health Service had considered the CMS and was satisfied that the amenity of nearby residents would not be harmed. The CMS had also been approved by Road Services; measures would be in place to ensure that traffic movements were done safely.

Neil Davidson of Persimmon Homes, the applicant, highlighted the importance of this development for East Lothian. The infrastructure was of course a key element. Further detailed applications would come forward in due course. Approval today would ensure time to get the work started in line with the legal agreement. Pre-planning was already well underway and it would be the intention to start work on site before the end of the summer.

Responding to questions, Mr Davidson stated that the construction hours quoted were standard practice, flexibility as regards the hours was needed; he could not say at this stage if Sunday working would be needed to meet schedules but it would only be used if essential.

Local Member Councillor Mackie stated that she had concerns about Sunday working, nearby residents were entitled to a day of peace from construction noise; she would like to propose an amendment to condition 3 to exclude construction works on Sundays.

Local Member Councillor Currie, not a member of the Planning Committee, supported this proposal. His main concern was impact of construction traffic, working hours and workforce access to the site. He welcomed the affordable housing this application would bring forward.

Local Member Councillor Williamson agreed with comments expressed; he would second Councillor Mackie's proposal. He would be supporting the application.

Local Member Councillor Forrest, not a member of the Planning Committee, also agreed with all comments made and supported Councillor Mackie's proposal. He stressed it was important to get the infrastructure done and to ensure everything was well regulated.

Councillor Innes welcomed this application. It was a strategic site, not just for the LDP but in a national sense. It would deliver much needed affordable housing.

Further discussion took place in relation to the proposed amendment.

The Convener also stressed the importance of this site for East Lothian. He acknowledged the potential disturbance for people living nearby during the construction period but indicated that sometimes weekend working was required. He would be supporting the officer's recommendation which included having construction works on Sundays; there were measures in place to deal with problems should any arise.

He moved to the vote on the report recommendation (to grant consent) noting the differing views and asked Members to vote for:

Option 1 – as per the report which includes construction works on Sundays

Option 2 – the amendment (proposed by Councillor Mackie, seconded by Councillor Williamson) to exclude construction works on Sundays

For option 1: 4

For option 2: 8

Against: 0

Abstentions: 0

Decision

The Committee agreed that approval of matters specified in conditions for the proposed infrastructure development be granted subject to the following conditions (which includes the amendment to condition 3):

- 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;

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.

DRAFT

Signed

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Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee
MEETING DATE: Wednesday 24 June 2020
BY: Head of Development
SUBJECT: Application for Planning Permission for Consideration

2

Application No. **19/00796/AMM**

Proposal Approval of Matters specified in conditions of planning permission in principle 17/00020/PPM - Erection of 115 houses and associated works

Location **Land At Newtonlees Farm
Dunbar
East Lothian**

Applicant Robertson Homes Limited

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSAL

Although this application is for the approval of matters specified in conditions of planning permission in principle 17/00020/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the number of dwellings detailed is greater than 49. Accordingly, the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

The application site is an area of agricultural land in the East Lothian countryside, located to the southeast of Dunbar and on the northwest side of Broxburn. It is some 8.3 hectares in area. The site is within the battlefield site of the Battle of Dunbar II that is included in Historic Environment Scotland's Inventory of Historic Battlefields.

The site is allocated by Proposal DR12 of the adopted East Lothian Local Development Plan 2018 for circa 115 homes.

The site is bounded to the east by the A1087 Bowmont Terrace public road and at its southeast corner by some of the residential properties of Broxburn, to the south by a road, to the west by a road leading to the residential properties of Newtonlees Cottages and by the residential properties of Cair Deil, Endrigg, The Bungalow and Newtonlees Farmhouse and to the north by the access road to Newtonlees Farm. The East Coast Main Line is to the west of the site.

The land on the north side of the access road to Newtonlees Farm was granted planning permission (ref: 15/00630/PM) in October 2016 for the erection on it of 240 houses and associated works. The development the subject of that planning permission is well underway and many of the houses are built and occupied.

In September 2018 following the conclusion of a S75 legal agreement to secure a financial contribution of a total of £1,356,655 towards the provision of additional accommodation at Dunbar Primary Lower School and Nursery, Dunbar Primary Upper School and Dunbar Grammar School, and to secure that 25% of all housing units be developed as affordable housing, planning permission in principle 17/00020/PPM was granted for a residential development of the application site, along with a cemetery together with associated access, infrastructure, landscaping and open space. Condition 2 of planning permission in principle 17/00020/PPM states that no more than 115 residential units are approved for the site.

Approval of the matters specified in conditions of planning permission in principle 17/00020/PPM is now sought for the erection on the application site of 115 houses and for associated works. Of the 115 proposed houses 29 would be affordable and the remaining 86 houses would be for private sale.

Of the 86 private sale houses to be erected within the site, 66 would be detached and 20 would be semi-detached. In terms of size, 4 of the 86 proposed houses would contain 6 bedrooms, 34 would contain 5 bedrooms, 40 would contain 4 bedrooms, and 8 would contain 3 bedrooms.

The 29 affordable units to be erected within the site would be a mixture of 2, 3 and 4 bedroomed houses, and 2 bedroom cottage flats.

It is shown that vehicular and cycle access to the sites would be taken by way of two new accesses from the A1087 public road to the east. Through separate application ref: 20/00159/P planning permission has been granted for the formation of the 2 vehicular accesses into the site from the A1087 public road to serve the housing development proposed in this application. The accesses themselves therefore do not form part of this application.

Pedestrian accesses to the site, as well as an alternative cycle accesses, would also be provided at 3 points at the north and southern boundaries of the site.

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

Subsequent to the registration of this application, further drawings have been submitted showing revisions to the site layout including a change to the mix of residential units, the relocation of the residential units, the removal of an internal access road and the consequential provision of a second vehicular access into the site and information on safe routes to school.

In January 2019 planning permission (ref: 18/01147/PCL) was granted for the change of use of agricultural land to form a public burial ground and for the provision of infrastructure to permit use of the site for the burial of human remains and associated works on the area of land granted planning permission in principle 17/00020/PPM for a cemetery. Planning permission 18/01147/PCL has not yet been implemented.

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 this application. Proposal DR12: Land at Newtonlees Farm, of the adopted East Lothian Local Development Plan 2018 and Policies DP1 (Landscape Character), DP2 (Design), DP3 (Housing Density), DP4 (Major Development Sites), CH5 (Battlefields), T1 (Development Location and Accessibility), T2 (General Transport Impact), OS3 (Minimum Open Space Standards for New General Needs Housing), OS4 (Play Space Provision in new General Needs Housing Development), , HOU3 (Affordable Housing Quota) and HOU4 (Affordable Housing Tenure Mix) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of this application.

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

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

REPRESENTATIONS

In total 19 representations to the application have been received. One makes comment on the proposals and the other 18 object to them. The main grounds of objection can be summarised as follows:

- * The proposed safe route to school cuts through a working farm yard;
- * The development would be on Greenbelt land;
- * The site is too close to Torness and the Cement Works for such a large housing development which could put people at risk for a future incident;
- * The pressure on Dunbar services and infrastructure (including schools, medical centre, water supply, sewage works, public car parking etc) would be intolerable without new

facilities and investment;

- * People wouldn't want to live next to a cemetery;
- * There is a large amount of wildlife including Graylag geese, badgers and deer which would be adversely affected;
- * Queens Road is too narrow between the Spott Road and Queens Place junctions, with parked cars on both sides it will not cope with increased traffic volumes and will see an increased risk of accidents;
- * There are active farm processing buildings at Newtonlees Farm with heavy farm vehicles and lorries driving along the farm lanes regularly and at night which could cause a danger to pedestrians, particularly children;
- * There are derelict old farm buildings in a dangerous state next to the proposed development which should be made safe prior to any development commencing;
- * Significant fencing improvements to prevent children accessing the East Coast Mainline would be required as only low fencing to keep animals out is in place;
- * A1 access/junction at Cement Works - this is currently an accident blackspot with short slip roads and traffic having to cross four lanes to turn right, this development will increase the pressure on this junction and would necessitate its upgrade with an underpass/bridge and new slip roads;
- * The layout of the development is too close to the existing farm houses;
- * Insufficient notifications of the application, many of the residents living adjacent on Comrie Avenue and Dempster Place have not been informed and are directly impacted by this development;
- * There are too many houses proposed;
- * Inefficient use of land;
- * Issues of privacy, light, noise and air pollution, overlooking and overshadowing and infrastructure should be taken into account;
- * Development should not take place until snagging and drainage issues have been dealt with on the neighbouring development site;
- * There will be disruption during the building process.

The application site is not part of the Greenbelt, it comprises of Proposal DR12: Land at Newtonlees Farm, of the adopted East Lothian Local Development Plan 2018.

The impact of the proposed development on the infrastructure of Dunbar was assessed through the previous application for planning permission in principle ref: 17/00020/PPM and found, with some mitigation, to be acceptable. Developer Contributions towards increasing capacity at Dunbar Primary Lower School and Nursery, Dunbar Primary Upper School and Dunbar Grammar School have been secured.

The application was notified in accordance with statutory requirements.

Snagging issues on a neighbouring development site is not a material consideration in the determination of this application.

COMMUNITY COUNCIL

Dunbar Community Council as a consultee to the application have made the following comments regarding the proposed development:

- (i) The grant of planning permission in principle ref: 17/00020/PPM remains of grave concern;
- (ii) The development of the site does not meet the Council's Climate Change Strategy;
- (iii) The proposed development will lead to coalescence;
- (iv) Development should be directed to brownfield sites;
- (v) There are infrastructure issues;
- (vi) The proposed development would add considerable traffic to the local road network;
- (vii) Clear pedestrian connections should be made including routes to school;
- (viii) Local schools are under pressure;
- (ix) The local health centre is under pressure;
- (x) Issues of noise, sewerage, allotments, public transport, habitat, residential amenity, environmental impact, factoring and housing mix;
- (xi) There should be conditions were the application to be granted.

Policy OS5 of the adopted East Lothian Local Development Plan 2018 informs on the requirement of allotment provision and this is only sought for new housing proposals over 500 dwellings, therefore Policy OS5 is not relevant to the determination of this application.

PLANNING ASSESSMENT

By the grant of planning permission in principle 17/00020/PPM approval has been given for the principle of the erection of up to 115 houses on the application site following technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. There can therefore be no objection in principle to the erection of the 115 residential units now proposed.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development, the means of access to the site and the means of any enclosure of the boundaries of the site. In this regard the detailed proposals have to be considered against relevant development plan policy and the Illustrative Masterplan and conditions attached to planning permission in principle 17/00020/PPM.

The proposed residential development would form an extension to the existing housing on the southeastern edge of Dunbar. Due to the relationship the proposed new houses would have with the existing houses, including those still under construction to the north, the proposed residential development would be appropriate to its location and would not be out of keeping with the character of the settlement and local area. It would be seen as an extension to and against the backdrop of that existing housing and therefore would not appear isolated or sporadic. It would instead be well integrated into its surroundings.

The details now submitted for approval are for a scheme of development comprising a mix of detached, semi-detached and terraced houses (29 types of residential units), with the houses and cottage flats being two stories in height, some having accommodation in the roof space. The range of house types and sizes proposed would help to provide a distinctive layout and streetscapes with identity. The total number of units proposed accords with the planning permission in principle granted for the site and the mix of

residential units includes a range of sizes and types. The layout reflects the surrounding area, which is generally characterised by a mix of detached, semi-detached and terraced houses two-stories in height.

The range of house types proposed would give a variation of architectural form to the development, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development. The architecture of the proposed houses is of a traditional pitched roof form. It should be ensured that the use of render is the predominant wall finish as this would respect the built form of this part of Dunbar. However, some use of a contrasting wall finish (i.e. reconstituted stone) would be acceptable providing it is limited to a distinctively complete feature of the houses and respectful of their design integrity. A condition can be imposed on a grant of approval of matters specified in conditions for the proposed development to address these matters of wall finishes.

The proposed layout is broadly consistent with the layout shown in the Illustrative Masterplan docketed to planning permission in principle 17/00020/PPM. The proposed houses, due to their positioning on the application site and by virtue of their height, size and scale, and architectural design would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. This would ensure a visually attractive and cohesive development, with the proposed houses visible but not appearing incongruous or intrusive in their surroundings. The other components of the proposed development would not be harmful to the character and appearance of the area.

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

Subject to the imposition of the aforementioned conditions the occupants of each of the new houses would be afforded an appropriate level of privacy and residential amenity. The layout of the houses would also adhere to the normally accepted standards of overshadowing.

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

On all of these foregoing findings on matters of design, layout and amenity, and subject to the imposition of conditions, the proposed development is consistent with Proposal DR12, Policies DP1, DP2 and DP3 of the adopted East Lothian Local Development Plan 2018, and the Scottish Government Policy Statement entitled "Designing Streets".

Condition 3 of planning permission in principle 17/00917/PPM requires the submission and approval of a scheme of landscaping prior to the commencement of development on the site, and thereafter secure the implementation of the scheme of landscaping. The approval of this matter as specified in Condition 3 of planning permission in principle application 17/00020/PPM is sought through this application.

The Council's Landscape Projects Officer is generally content with the proposed scheme of landscaping, however she advises that some of the required landscaping planting is not adequate, and that the submitted landscape maintenance schedule omits necessary information on the future maintenance of the landscaping of the site. Therefore, a revised scheme of landscaping should be submitted with an accompanying

updated maintenance schedule. Such a requirement can be made a condition of a grant of this approval of matters specified in conditions application.

The proposed site layout includes areas of open space to be formed within the site. There is also an area indicated for equipped play within the site. The Council's Amenity Services raises no objection to the application, satisfied that the size and locations of the areas of open space proposed will provide for adequate informal recreation for the proposed development and satisfied with the size and location for the play area. It is therefore consistent with Policy OS1 and OS4 of the adopted East Lothian Local Development Plan 2018.

The principle of the means of accessing of the proposed residential development as shown in the Illustrative Masterplan attached to planning permission in principle 17/00020/PPM showed a single point of access taken from the A1087 Bowmont Terrace public road. However in discussions with the applicant over the detail of the means of access to the site, and in the interests of the appearance of the proposed development, two access are now proposed to be taken into the site, each of them taken from the A1087 Bowmont Terrace public road. However as the accesses themselves are outwith the red line boundary of the application site they are the subject of a separate application for planning permission (ref: 20/00159/P), and which application has already been granted.

The Council's Road Services raise no objection to the submitted details, being satisfied that the proposed development can be safely accessed by both cars, pedestrians and cyclists. As required by Condition 7 of planning permission in principle 17/00020/PPM, a footpath link would be formed into the site from its north boundary providing a connection to the adjacent development site to the north. This link would form part of the safe route to school for future occupiers of the houses within the site. The Council's Roads Services advise that the development would not result in unacceptable traffic congestion on the local road network, and that it would not result in a road or pedestrian safety hazard.

With regard to the safe route to schools from the site, Road Services recommend that:

- * The point on the route to the Lochend Campus Primary School where it uses the East Coast Main Line railway underpass to the west of Newtonlees Farm, should be surfaced and lit to an adoptable standard;
- * The point on the route where it crosses Newtonlees Farm access track, should be surfaced and lit to an adoptable standard; and
- * The point on the route to the Lochend Campus Primary School where it crosses the vehicular access to Dunbar Garden Centre should have drop kerbs and tactile paving.

Road Services advise that the matter of resurfacing of the East Coast Main Line railway underpass was brought to the attention of Network Rail in January 2020 to go through their internal access release process. This process undertaken by Network Rail involves internal and external consultation with the Office of Rail and Road and potentially can take 12 months or more, with the resurfacing being able to take place once this process is complete.

Conditions 4 and 6 of planning permission in principle application 17/00020/PPM requires works including the introduction of a 30 mph speed limit and off site road improvements, as well as a road safety audit. However, the approval of these matters as specified in Conditions 4 and 6 of planning permission in principle application 17/00020/PPM are not sought through this application. The requirement for the works embodied in Conditions 4 and 6 of planning permission in principle 17/00020/PPM therefore remains in force. Thus there is no requirement to also secure these again

through conditions attached to this approval of matters specified in conditions application.

Condition 10 of planning permission in principle application 17/00020/PPM requires the submission of a Green Travel Plan, to have particular regard to provision for walking, cycling and public transport access to and within the site. However, the approval of this matter as specified in Condition 10 of planning permission in principle application 17/00020/PPM is not sought through this application. The requirement to submit the Green Travel Plan is embodied in Condition 10 of planning permission in principle 17/00020/PPM and therefore remains in force. Thus there is no requirement to also secure this again through a condition attached to this approval of matters specified in conditions application.

Condition 11 of planning permission in principle application 17/00020/PPM requires the submission of a Construction Method Statement to minimise the impact of construction activity on the amenity of the area. However, the approval of this matter as specified in Condition 11 of planning permission in principle application 17/00020/PPM is not sought through this application.

However since the grant of planning permission in principle 17/00020/PPM, planning permission (ref: 18/01147/PCL) has been granted for the change of use of agricultural land to form a public burial ground and for the provision of infrastructure to permit use of the site for the burial of human remains and associated works on the area of land granted in planning permission in principle 17/00020/PPM for a cemetery. Planning permission 18/01147/PCL has not been implemented but remains extant until January 2022. Therefore it should now be ensured that any future funerals on that adjacent site could take place without disturbance from construction works on this residential development site. Therefore in these particular circumstances it would be prudent to impose a condition on a grant of this approval of matters specified in conditions again requiring the submission of a Construction Method Statement but to include measures to ensure that noise generating activities cease for the duration of funerals taking place on the cemetery land.

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

Condition 12 of planning permission in principle 17/00020/PPM requires the submission of a noise report, to specify any mitigation measures necessary to ensure the amenity of future occupiers of the development is not harmed by noise impacts associated with existing road and rail traffic. A noise impact assessment has been submitted with the application.

The Councils Environmental Protection Service has appraised the submitted noise report and recommends that:

- (i) 1.8m high acoustic fence barriers should be provided in the positions shown for them in Appendix A of the submitted Noise Impact Assessment report, with the fencing being of a close boarded form with no holes or gaps. The barrier can be a masonry wall or a timber fence with close boarded or overlapping boards. The boards should have a minimum density of 12kg/m², typically 18mm boards and have no holes or gaps at the base;
- (ii) The glazing specification for living rooms/bedrooms shall be in accordance with that specified in Appendix C of the submitted Noise Impact Assessment report.

Subject to these mitigation measures being implemented, which can be secured by a condition imposed on a grant of matters specified in conditions, there would be no loss of amenity to future occupiers of the proposed houses from noise impacts associated with existing road and rail traffic.

The Council's Biodiversity Officer advises that deer may be present on the site at times but they will range over a wide area, and therefore would simply move on to an alternative location if disturbed by the proposed development. The Biodiversity Officer further states that Canada Geese are a non-native species, however they are afforded some protection by the Wildlife & Countryside Act (1981). This means that (as with all wild birds) it is an offence to kill, injure or take the birds, however it does not provide any protection against disturbance of their feeding areas. This particular field the subject of the application may provide suitable foraging for Canada Geese, however there are alternative foraging areas in the vicinity such that she advises the loss of this particular field will not have a detrimental impact on geese feeding grounds.

Historic Environment Scotland have been consulted on this application and they have raised no objection to the proposed development nor do they have any comments to make in terms of impact of the proposals on the Battle of Dunbar II Battlefield Site.

The Council's Archaeology/Heritage Officer advises that the application site lies within the landscape designated for the Battle of Dunbar II and there is some potential for archaeological related remains to be located within the site. Because of this the Archaeology/Heritage Officer recommends that if approval of matters specified in conditions is to be granted for this proposal, a programme of archaeological works (Metal Detecting Survey and Evaluation) should be carried out prior to the commencement of development. This requirement can be secured through a condition attached to a grant of approval of matters specified in conditions. This approach is consistent with Scottish Planning Policy: June 2014, Planning Advice Note 2/2011: Planning and Archaeology and with Policy CH5 of the East Lothian Local Development Plan 2018. Subject to this planning control, the proposed development would not have a significant adverse effect on the key features of the battlefield.

Condition 13 of planning permission in principle 17/00020/PPM requires the details for the proposed sustainable urban drainage scheme (SUDS) should be submitted for the written approval of the Planning Authority. A SUDS scheme has been submitted to the Planning Authority. SEPA raise no objection to the 115 residential units now proposed.

The Council's Team Manager for Structures, Flooding & Street Lighting advises that further information for the SUDS scheme and the drainage strategy for the site is required to demonstrate that the surface water drainage strategy for the site is acceptable. Such a requirement can be secured by the imposition of conditions on a grant of approval of matters specified in conditions.

Scottish Water raise no objection to the application.

Condition 14 of planning permission in principle 17/00020/PPM requires the submission of the details of artworks to be provided on site or on a location away from the site and the artwork provided as approved prior to the occupation of the final residential unit approved for erection on the site. However, the approval of this matter as specified in Condition 12 of planning permission in principle application 17/00020/PPM is not sought through this application.

The mechanism of a financial contribution towards additional educational provision for a housing development of 115 residential units has already been secured through the

grant of planning permission in principle 17/00020/PPM.

The mechanism of the provision within the residential development of 25% affordable housing units (i.e. 29 units of the proposed 115 units) is already secured through the grant of planning permission in principle 17/00020/PPM. The proposed mix and house types for the affordable units has been agreed with the Strategic Investment and Regeneration Service Manager, and therefore they raise no objection to the application, which is consistent with Policies HOU3 and HOU4 of the adopted East Lothian Local Development Plan 2018.

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

RECOMMENDATION:

That approval of matters specified in conditions permission in principle 17/00020/PPM for the proposed housing development be granted subject to the following conditions:

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

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

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

Reason:

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

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

Reason:

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

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

Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and flats and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

- 4 Prior to the commencement of development, the section of the dedicated safe route to school for future residents of the development to Dunbar Primary Lochend Campus that is located within the underpass of the East Coast Main Line (the safe route to school as shown on docketed drawing no. NLD-ARC-009 Rev C) shall be surfaced in tarmac, brought up to an adoptable standard and shall be lit. Details of the tarmac surfacing, adoptable standard construction and lighting, including a timetable for its implementation shall be submitted to and approved in writing by the Planning Authority and thereafter those works shall be implemented as so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure appropriate pedestrian and cycle links to and from the site.

- 5 Prior to the commencement of development, the section of the dedicated safe route to school taken from the footpath link formed into the site from its north boundary and where it crosses over the open space of the adjacent development site to the north (the safe route to school as shown on docketed drawing no. NLD-ARC-009 Rev C) shall be surfaced in tarmac, brought up to an adoptable standard and shall be lit. Details of the tarmac surfacing, adoptable standard construction and lighting, including a timetable for its implementation, shall be submitted to and approved in writing by the Planning Authority and thereafter those works shall be implemented as so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure appropriate pedestrian and cycle links to and from the site.

- 6 Prior to the commencement of development, the section of the dedicated safe route to school from the site to the Lochend Campus Primary School where it crosses the vehicular access to Dunbar Garden Centre shall have drop kerbs and tactile paving. Details of the provision of the drop kerbs and tactile paving, including a timetable for their installation, shall be submitted to and approved in writing by the Planning Authority and thereafter those works shall be implemented as so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure appropriate and safe pedestrian and cycle links to and from the site.

- 7 A timetable for the provision of all boundary treatments, including the erection of the 1.8 metre high boundary enclosures for the rear gardens of the houses hereby approved, shall be submitted to and approved in advance by the Planning Authority and development shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 8 All the open space recreation areas indicated on the docketed drawings shall be available for use prior to the occupation of the last house or flat on the site. The open space recreation areas, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

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

- 9 A play area with equipment suitable for children aged 0 - 8 years shall be provided on the area shown for it on docketed planning layout drawing no. NLD-ARC-004 Rev D. Prior to the commencement of the development hereby approved the details of the play equipment and surfacing materials to be installed in the play area shall be submitted to and approved in advance by the Planning Authority. The details to be submitted shall include a timetable for its installation.

The play equipment and surfacing materials shall thereafter be installed in accordance with the details so approved. The equipped play area, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of a play area in the interest of the amenity of the future occupants of the residential units hereby approved.

- 10 1.8m high acoustic barriers shall be provided in the positions shown for them in Appendix A of the docketed Noise Impact Assessment report, prior to the occupation of the residential properties which gardens they will enclose. Where the 1.8m high barrier will be fencing, the fencing shall be of a close boarded form with no holes or gaps and shall have a minimum density of 12kg/m², typically 18mm boards and have no holes or gaps at the base.

The glazing specification for the glazing units of the residential properties as shown in Appendix C of the submitted Noise Impact Assessment shall be in accordance with that shown and as specified in Appendix C of the submitted Noise Impact Assessment report.

Thereafter such form of attenuation shall be retained in place unless otherwise approved by the Planning Authority.

Reason:

In the interest of safeguarding the residential amenity of future occupiers of the proposed residential development.

- 11 No development shall take place on the site until the applicant has undertaken and reported upon a programme of archaeological work (Metal Detecting Survey and Evaluation) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the Planning Authority.

Reason:

In the interests of archaeological and natural heritage.

- 12 Prior to the commencement of development a revised detailed scheme of landscaping shall be submitted to and approved by the Planning Authority. This shall include details of:

i) all trees and shrubs on site and denote those to be retained and those to be removed and the root protection areas in accordance with BS5837: 2012;

ii) tree protection measures in accordance with BS5837: 2012 and construction method statements for all works encroaching on root protection areas, including that any such work shall be supervised by a qualified arboriculturalist;

iii) new tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting, including for the SUDS pond with existing and proposed levels;

iv) a planting schedule, specification and maintenance programme, including details of maintenance access where required;

v) details of the landscape planting/boundary treatment to all semi private and defensible spaces in front of or to the side of dwellings and to the side of parking courtyards, showing them to be enclosed by walls/hedges/fences/ or railings, to define areas of private space from public space.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development or occupation of any house hereby approved, whichever is the sooner. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

In the interests of achieving an appropriate landscaped setting for the housing development.

- 13 Prior to commencement of development full details of the proposed Sustainable Drainage System scheme and a Drainage Assessment for the site, which both must meet the vesting requirements of Scottish Water and be in accordance with the Council's Supplementary Planning Guidance 'Sustainable Drainage Systems (SuDS)', shall be submitted to and approved by the Planning Authority. The development shall thereafter be carried out in strict accordance with the details and Drainage Assessment so approved, unless otherwise agreed in writing with the Planning Authority.

Reason:

To ensure that development is not at risk from flooding, there is no increase in flood risk elsewhere and appropriate long-term maintenance arrangements are in place.

- 14 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area and on the burial ground the subject of planning permission 18/01147/PCL 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 construction traffic, shall include hours of construction work and shall include measures to ensure that noise generating activities cease for the duration of funerals taking place on the burial ground the subject of planning permission 18/01147/PCL. The Construction Method Statement shall also include details of wheel washing facilities to be provided, and that these facilities shall be maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Reason:

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

- 15 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.

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

REPORT TO: Planning Committee
MEETING DATE: Wednesday 24 June 2020
BY: Head of Development
SUBJECT: Application for Planning Permission for Consideration

3

Application No. **18/01086/PM**
Proposal Erection of 122 houses, 20 flats and associated works.
Location **Main Road
Macmerry
East Lothian**
Applicant Balfour Beatty Homes

RECOMMENDATION **Consent Granted**

REPORT OF HANDLING

PROPOSAL

The application site is greater than 2 hectares and more than 49 dwellings are proposed. Therefore, 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. Consequently, the application is brought before the Planning Committee for a decision.

As is statutorily required for major development proposals, this development proposal was the subject of a Proposal of Application Notice (PAN) (Ref: 16/00014/PAN) which was submitted on 13 July 2016. The PAN description was 'residential development with related access, road, public open space, structural landscaping, sustainable drainage and ancillary works'. The PAN identified an area of land larger than the current application site, extending further to the north and east of the current application site. In addition, the current application no longer proposes a community hall which, it is understood, was part of the proposal discussed in the PAN. Although the development for which planning permission is now sought occupies only part of the site described in the PAN, it 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 and is acceptable.

As a major development, community consultation had to be advertised and carried out prior to this application for planning permission being made to the Council. As an outcome of that and as a statutory requirement for major development applications, a pre-application consultation report has been submitted with this application.

The report informs that the required pre-application public event was held in Macmerry Village Hall on the 08 August 2016 after being advertised in the East Lothian Courier on 28 July 2016 and by posters placed in locations in Macmerry. The PAN was sent out to local ward Councillors and Macmerry and Gladsmuir Community Council.

The report states that a total of 50 attendees were recorded at the event at which information was displayed and representatives of Balfour Beatty Homes were available to discuss the proposal. The applicant states that a questionnaire was made available to record comments, 25 of which were reported to be returned to the applicant.

Attendees of the pre-application public exhibition raised a number of issues regarding the proposals, which are summarised by the applicant in the Pre Application Consultation Report. The comments included a wish to see a range of housing sizes and type, desire for affordable housing, concerns over the impact on infrastructure, the scale of development, impacts on existing housing and walking routes. The Pre-application Consultation Report also summarises how the applicant claims to have responded to the consultation and public comments.

The application site is comprised of some 5.16 hectares of arable agricultural land located on the northwest side of the village of Macmerry. The site is comprised of the western part of housing site TT7 Macmerry North, as allocated by the adopted East Lothian Local Development Plan 2018(ELLDP) and additional land to the north west.

The site is bounded to the south by the gardens of residential properties on Main Road, Station Row and Old Smithy Mews. To the north and east the site adjoins agricultural land. To the east, the site is bounded by a footpath, which is part of the core path network, beyond which is the other part of the TT7 allocated site. On 5th May 2019 planning permission (ref: (18/00090/PM)) was granted for 102 residential units on the eastern part of the TT7 site. Planning permission 18/00090/PM was granted subject to the satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:

- (i) a financial contribution to the Council of £465,222 towards the provision of additional accommodation at Ross High School
- (ii) a financial contribution to the Council of £362,100 towards the provision of additional accommodation at Macmerry Primary School;
- (ii) 26 affordable residential units within the application site
- (iii) a financial contribution to the Council of £ £38,510.10 towards the off site provision of sporting provision in Macmerry
- (iv) secure a financial contribution to the Council of £19,335 for transport improvements. (Comprised of £1,203 for road improvements to Old Cragihall Junction, £928 for Salters Road Interchange, £4,491 for Bankton Interchange, £1,404 for Musselburgh town centre improvements and £11,309 for Tranent Town Centre improvements).
- (v) secure a financial contribution to the Council of £50,184 towards a Segregated Active Travel Corridor

Planning permission was originally sought through this application for the erection of 157 residential units, comprising 125 houses and 32 flats. Through amendments to the application planning permission is now sought through this application for the erection of

142 residential units, comprising 122 houses and 20 flats.

The development site layout plan shows how the proposed 142 units would be accommodated on the site along with associated access roads, parking areas, landscaping, open space and a sustainable drainage system (SuDS) basin.

Of the 142 units there would be a total of 106 houses for private sale and 36 units would be for the provision of affordable housing. The proposed market houses would comprise of a mix of detached, semi-detached and terraced houses. Six of the houses would be semi detached bungalows. Otherwise they would be predominantly two-storey. The proposed houses would vary in size; 14 would contain 2 bedrooms, 43 (including the 6 bungalows) would contain 3 bedrooms and 49 would contain 4 bedrooms. The 20 flats would be 'cottage flats' contained within two storey buildings. The flats would all be located in the southwest part of the site.

The 36 affordable housing units would be comprised of 12 one-bedroom cottage flats, 8 two-bedroom cottage flats and 16 terraced houses (8 with 2 bedrooms, 7 with 3 bedrooms and 1 with 4 bedroom). The affordable housing has all been grouped together in the southeast corner of the site and coloured grey on site plan 760/002 W.

Vehicular, pedestrian and cycle access to the site would be taken by way of a road from the A199. This will run through the site to link with the road to be formed into the adjacent site to the east.

Pedestrian footways are proposed alongside the roads within the site to link to the core path to the east. Additionally footpaths are proposed along the wayleave immediately to the north of the houses of Station row and also along the western and northern edges of the site, both of which would link to the core path which bounds the eastern edge of the site.

Areas of open space have been proposed throughout the site. The largest of these is a triangular area which would be overlooked by houses on three sides.

The SuDs for the site will be in the northeast corner of the site and will in part take the form of underground storage tanks with grassed open space above.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 19 November 2018 the Council issued a formal screening opinion to the applicant. This concluded that the proposed development is unlikely to have significant effects on the environment to the extent that any expert and detailed study through EIA would be necessary to properly assess any effect. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed residential development to be the subject of an EIA.

The following reports have been submitted as part of this application:

- * Pre-application Consultation Report;
- * Design and Access Statement, October 2018;
- * Ecology Report, October 2018
- * Flood Risk Assessment, October 2018

- * Ground Investigation Report, January 2018
- * Transport Statement, October 2018
- * Minerals report (this report has been corrupted and is unreadable)
- * Air Quality Impact Assessment

DEVELOPMENT PLAN

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

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan (ELLDP) 2018 together with its adopted supplementary guidance.

The purpose of the approved South East Scotland Strategic Development Plan (SESplan) is to set out the strategic planning framework to assist preparation of local development plans. Its policies are generally not relevant for assessing individual planning applications.

Relevant ELLDP Proposals are PROP TT7: Macmerry North, PROP CF1: Provision of New Sports Pitches and Changing Accommodation and PROP ED4: Tranent Cluster Education Proposals.

Relevant ELLDP Policies are DP1: Landscape Character, DP2: Design, DP3: Housing Density, DP4: Major Development Sites, DP9: Development Briefs, HOU3: Affordable Housing Quota, HOU4: Affordable Housing Tenure Mix, OS3: Minimum Open Space Standard for New General Needs Housing Development, OS4: Play Space Provision in New General Needs Housing Development, W3: Waste Separation and Collection DCN2 (Provision for Broadband Connectivity in New Development) NH5: Biodiversity and Geodiversity Interests, including Nationally Protected Species, NH8: Trees and Development, NH10: Sustainable Drainage Systems, NH11: Flood Risk, NH12: Air Quality, NH13: Noise, T1:Development Location and Accessibility, T2:General Traffic Impacts, T3:Segregated Active Travel Corridor, T4:Active Travel Routes and Core Paths as part of the Green Network Strategy, PROP T15:Old Craighall A1(T) Junction Improvements, PROP T17:A1(T) Interchange Improvements, PROP T21:Musselburgh Urban Traffic Control System, PROP T27:Tranent Town Centre One-Way System, PROP T28:Junction Improvements at Elphinstone Road and Edinburgh Road, T32:Transport Infrastructure Delivery Fund and Policy DEL1: Infrastructure and Facilities Provision of the East Lothian Local Plan 2018.

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

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

A further material consideration is Scottish Government Advice given in Planning Advice Note 67: Housing Quality. Planning Advice Note 67 explains how Designing Places should be applied to new housing. In PAN 67 it is stated that the planning process has

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

Also material to the determination of the application is the non-statutory Development Brief (TT7 Macmerry North,) which was adopted by the Council on 30 October 2018.

REPRESENTATIONS

A total of ten written representations have been received in respect of this application. Eight of these objected to the proposal, one raised concerns and questions and one was a letter of support.

A copy of each written representation is contained in a shared electronic folder to which all Members of the Committee have had access.

The main grounds of objection and concern are summarised as follows:

- * Residents views should be considered/ there seems to have been no consultation with residents;
- * The number of units proposed has almost doubled from previous proposal;
- * Proposal looks like a 'modern rabbit warren' and not a pleasant housing estate;
- * There will be a substantial percentage increase in the population of Macmerry from the proposed development plus that to the north of St Germain's Terrace, this will have a detrimental impact on the village of Macmerry/ Loss of Macmerry's character as a village;
- * Macmerry will soon become part of Tranent due to expansion of the village through new build;
- * Objection to building in this location when there are other sites at the other end of the village
- * Opposition to building on open agricultural land instead of brownfield land/ concern over loss of productive land;
- * Environmental impact;
- * Detrimental impact on wildlife in the area;
- * New development is swallowing up the old buildings of the village;
- * Consideration of conservation and aesthetics no longer seem to matter;
- * The proposed development will block egress from houses next to the site; currently 1 - 4 Smithy Mews, the Anvil and Glenrichmond have egress out on to the vacant field. Proper egress should be provided in case of an emergency;
- * Possible 'abuse' of private lane to rear of Station Row;
- * Loss of light to existing properties;
- * Loss privacy for existing houses;
- * Concern over Traffic impact from increase vehicles;
- * Concerns that the proposal would result in an increase in traffic onto the Main Road cycle lane, which is already a very busy road;
- * A single road access will result in congestion and potentially 157 vehicles trying to get

out onto main road in the morning;

- * Increase in traffic noise;
- * It will add to problem of speeding vehicles entering Macmerry from the west;
- * Concerns about dangers for children walking to school;
- * Concern over responsibility for the maintenance of pavements;
- * A village hall had been proposed in relation to the development but it is now not shown/ what has happened to proposed hall?
- * Impact on education, social care and health needs;
- * Concern over the impact on local shops and how future residents will get shopping;
- * Concern over the impact on flooding and surface water drainage/ there have been floods in the past and the field has provided drainage;
- * Concern over where the waste from all the additional households will go;
- * Damage to the main road from construction;
- * Light pollution, especially from parking areas;
- * Concern regarding land stability and land remediation;

The main grounds of support are summarised below:

*Support for a direct connection from the SuDS proposed to the existing burn, thereby adding to the burn water flow.

In relation to the first point, the applicant has carried out the statutory requirement for consultation for developments of this size. The other points raised by representatives are discussed below.

The current application is comprised of part of allocated housing site PROP TT7. PROP TT7 of the ELLDP states "land at Macmerry North is allocated for circa 150 homes. A design solution for the site that conforms to the Council's Development Brief will be required. Any development here is subject to the mitigation of any development related impacts, including on a proportionate basis for any cumulative impacts with other proposals including on the transport network, on education and community facilities, and on air quality as appropriate".

COMMUNITY COUNCIL

Macmerry and Gladsmuir Community Council were consulted but have not provided any comments.

PLANNING ASSESSMENT

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

There is an adopted Development Brief for site TT7. This lists six points that should be complied with in the development of the site. Policy DP9 of the ELLDP states that proposals for the development of sites that are subject to a development framework or brief that has been adopted by the Council must conform to the relevant framework or brief.

The area of the current application, 5.16 hectares, comprises approximately 58% of the whole TT7 Macmerry North allocation of some 8.95 hectares. The current application seeks permission for 142 dwelling (120 houses and 20 flats), which would be 96% of the circa 150 residential units that is referred to in Proposal TT7.

In May 2019 planning permission (18/00090/PM) was granted for 102 residential units in the eastern part of the TT7 site. This 3.75 hectares site comprises approximately 42% of the whole TT7 Macmerry North allocation of some 8.95 hectares. The 102 dwelling proposed would comprises 68% of the circa 150 residential units that is referred to in Proposal TT7.

In considering the 18/00090/PM, Balfour Beatty shared information with the Council to indicate that they hope to come forward with a development of approximately 140 units for the remainder of the allocated site to the west. This would have given an overall number of units on the TT7 site of 242 dwelling. This information was used by the Council to assess the potential overall impacts of the TT7 site. Therefore, the application was not only been considered in isolation but in relation to the potential implication it would have in combination with future development proposals in the remainder of the site to the west based on an additional 140 units. The current application proposes an additional 2 units on top of this presumed 242 units.

Therefore, the current application would result in an additional 94 units (or 63% increase) over the whole TT7 site above the circa 150 units referred to in the ELLDP 2018.

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

Policy DP4 of the ELLDP 2018 requires the submission of a masterplan for the entire allocated site and an accompanying supporting statement for major developments. The application shows the proposal in relation to already granted proposal in the eastern part of the site and how it will link and relate to this adjacent site. The proposal is therefore not contrary to Policy DP4 of the ELLDP 2018.

The adopted Development Brief for the site sets out guiding principles, and indicative design, to be followed, where possible. These include:

- (i) taking site access from the A199 and from Chesterhall Avenue with an east-west vehicular access connection across the site to Chesterhall Avenue;
- (ii) Buildings on the Southern boundary of the site should front onto the A199 road with parking provided to the rear;
- (iii) the western and northern boundary, gardens should be defined by a hedgerow with specimen tree planting;
- (iv) the existing core path route should be retained and the route enhanced through the addition of hedgerows on either side and new specimen tree planting. A minimum of two points of path access are required on to the core path from the housing areas to the east and the west,
- (v) the overall site layout should enable pedestrian and cycling connectivity through the site providing at least one direct link from the site out through MountfairGardens to the southeast and into Macmerry;
- (vi) An appropriately designed landscaped gateway should be introduced at the south west corner of the site. This should be designed to assist with the slowing of traffic on approach to the village

The proposed development has one access point from the A199 road in the south west of the site and is shown to link through to the adjacent site also part of the TT7 allocated site that already has planning approval 18/00090/PM. In accordance with the adopted Development Brief an east-west connection capable of vehicle movement is provided across the site. A connection point has been approved up to the western boundary of

planning permission 18/00090/PM on the eastern side of the core path. The current application demonstrates how the proposed road would link to this spur and has illustrated the current proposal within the context of the wider TT7 site. A crossing point over the core path will be provided to link the road and footpath to the site to the east (ref: 18/00090/PM). A footpath link from the site will run between plots 85 and 86/87 over the core path to meet with a footpath link on that adjacent site. Therefore the 2 separate developments has been designed to ensure connectivity and permeability between them.

Additionally there will be 2 further points of access from the site onto the core path that bounds the east side of the application site. To ensure permeability and access for all, including a safe route to school the section of core path from Mayfair Gardens to the proposed footpath link between plots 85 and 86/87 on the site needs to be upgraded to an adoptable standard. The provision of this upgraded section of core can reasonably be made a condition of a grant of planning permission. This will ensure that there is an accessible and direct connection from the site to Main Street and to Macmerry Primary School to the east of the Macmerry. Subject to this planning control there will be connectivity and permeability from the site to Main Street and the centre of Macmerry.

Point 2 of the Development Brief states that, 'Buildings on the Southern boundary of the site should front onto the A199 road with parking provided to the rear'. It also states that the houses here should be no higher 1.5 storeys. There are 6 semi detached houses proposed closest to the A199 that front onto that one in the south west of the site (plots 1, 2, 139, 140, 141 and 142). All 6 of these houses would be the semi detached bungalows. These 6 bungalows would be positioned near the footway with their frontages facing onto and close to the road. The parking for these bungalows would be provided in courtyards to the rear. These bungalows would relate well to the existing houses to the east which are single storey in height and positioned next to the footway. The proposed 6 semi detached bungalows would continue the strong frontage and would create a positive streetscape. This would ensure an appropriate and sympathetic entrance into Macmerry which would respect the defined building line and spatial layout of the existing houses to the east.

Parking for the site is predominantly to the side and rear of houses or within communal parking courts spread throughout the development. Many of the plots which have driveways to the side of the houses with the houses pulled forward towards the road and therefore there is not sufficient space to accommodate future hardsurfacing and frontage parking. This would ensure that in the future the dominance of car will not erode the visual amenity of the area. All of this is in accordance with the Development Brief for the site consistent with Policy DP4 and DP9 of the adopted East Lothian Local Development Plan 2018.

Policy DP3 of the ELLDP 2018 state that new housing sites will be expected to achieve a minimum average density of 30 dwellings per hectare (net) using a full range of housing types and sizes. This is to ensure efficient use of land and other resources and create mixed communities with a full range and choice of house types and sizes. The applicant has stated that the net density of the site, excluding open space, is 37 units per hectare, thus complying with this requirement of Policy DP3.

In terms of housing types and sizes, the development would comprise of a range and mix of detached, semi-detached, terraced houses and cottage flats. The range of house types and sizes proposed would help to provide a distinctive layout and streetscapes with identity and the mix of residential units includes a range of sizes and types. The layout reflects the surrounding area, which is generally characterised by a mix of detached, semi-detached and terraced houses two-stories in height.

The range of house types and flats proposed would give a variation of architectural form to the development, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development. The architecture of the proposed houses is of a traditional pitched roof form. It should be ensured that the use of render is the predominant wall finish as this would respect the built form of this part of Macmerry. However, some use of a contrasting wall finish (i.e. reconstituted stone) would be acceptable providing it is limited to a distinctively complete feature of the houses and respectful of their design integrity. A condition can be imposed on a grant of approval of matters specified in conditions for the proposed development to address these matters of wall finishes.

The proposed houses and cottage flats, due to their positioning on the application site and by virtue of their height, size and scale, and architectural design would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. This would ensure a visually attractive and cohesive development, with the proposed houses visible but not appearing incongruous or intrusive in their surroundings. The other components of the proposed development would not be harmful to the character and appearance of the area.

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

Subject to the imposition of the aforementioned conditions the occupants of each of the new houses would be afforded an appropriate level of privacy and residential amenity. The layout of the houses would also adhere to the normally accepted standards of overshadowing.

In respect of landscape matters, **the Council's Landscape Policy Officer** has worked with the developer to ensure that the landscaping of the site will provide an attractive framework for the housing development. She raises no objection to the proposal provided a condition is attached to any grant of planning permission requiring the submission of a detailed landscape plan.

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

The proposed new houses and would be so sited and oriented to provide a sufficient length of garden and distance between windows so as not to harm the privacy and amenity of neighbouring or nearby residential properties through overlooking or overshadowing.

In assessing whether or not a proposed new development would result in overlooking and loss of privacy to other residential properties it is the practice of the Council as planning authority to apply the general rule of a 9 metre separation between the windows on the proposed house and the garden boundary of neighbouring residential properties and an 18m separation between directly facing windows, if they are not adequately screened.

As there will be a linear strip of openspace running along almost the entire south boundary of the site the proposal accords with those standards of 9m to garden boundaries and 18m window to window of the existing houses that are adjacent to the

south boundary of the site. Therefore, the proposed houses and flats along the south of the site would not result in a loss of residential amenity to existing properties on the south or to any other neighbouring residential properties.

On all of these foregoing findings on matters of design, layout and amenity, and subject to the imposition of conditions, the proposed development is consistent with Proposal TT7, Policies DP1, DP2 and DP3 of the adopted East Lothian Local Development Plan 2018, and the Scottish Government Policy Statement entitled "Designing Streets".

The 36 affordable housing units would be located one area in the south east corner of the site.

The Council's Economic Development and Strategic Investment Service has advised that by being located in the south east corner of the site the group of affordable houses would be located in close proximity to 12 of the affordable units on the on the east side of the core path. The SPG on affordable housing supports up to 60 affordable units to be grouped together. Therefore as the total number of units within this group would only be 48 it is consistent with that SPG on affordable housing. Therefore and as the Council's Economic Development and Strategic Investment Service has advised that the proposed mix of affordable housing has been agreed by the Strategic Investment team the proposal is consistent with Policies HOU3 and HOU4 of the adopted ELLDP 2018.

Policy OS3 of the ELLDP requires developments of 20 or more dwelling to have 60sqm of open space per dwelling which gives a requirement for 8640 sq m of openspace. In this case the applicant stated that there would be 9480qm of open space, formal and informal thus complying with Policy OS3 of the East Lothian Local Development Plan 2018.

One of the main area of open space is a triangular area of openspace located within western part of the site, the other is the grassed area above the attenuation tanks proposed as the SuDs for the site. It is also proposed to have a footpath and openspace around the outer edge of the site allowing access from Main Street in the southwest corner to the core path in the northeast corner, with a connection from a path between plots 08 and 09 on the west boundary of the site. A long linear strip of openspace of varying widths is also proposed along the south boundary of the site.

The Council's Principal Amenity Officer raises no objection to the amount and location of the openspace. He notes that the larger triangular area to the west of plots 122 - 126 would provide a 'village green' type space which could accommodate activities and community gathering. An equipped play area has also been proposed on this area of openspace. Therefore, in respect of openspace and provided details of the play equipment that is to be provided is submitted to and approved by the Planning Authority which can reasonably be made a condition of a grant of planning permission the proposal complies with Policy OS4 of the East Lothian Local Development Plan 2018.

The proposals are for site access to be taken from the A199 and linking to the site to the east. Provided the required visibility splay of 4.5 metres by 160 metres is provided and maintained on the western side of the proposed access junction with the A199 and 4.5m by 70 metres on the eastern side then this layout is acceptable. This complies with the Development Brief for the site. However this will require a crossing point over the core path which is land outwith the application site and outwith the control of the applicant. Therefore to ensure connectivity to the adjacent site to the east it should be made a condition of a grant of planning permission that prior to the commencement of development the crossing point over the core path is installed, with the details of its

design and the manner it would integrate with the core path to be submitted and approved by the Planning Authority prior to its installation. It is also proposed to form a 4.0 metre wide shared use (cyclist and pedestrian) path or SATC on the southern boundary of the development, where it meets the adjacent A199. The details of the junction from the site onto the A199 demonstrating how it will be designed to accommodate the cycle path on Main Road, must be submitted to and approved prior to its formation. This can also be reasonably be made a condition of a grant of planning permission.

With regard cycle and pedestrian links within the site the core path runs adjacent to the east boundary of the site and provides an important feature linking Macmerry to other settlements within East Lothian. The proposal shows 5 separate links from the site onto the core path which includes one road connection over the core path and onto the adjacent site to the east. However, unless and until that adjacent site to the east is well underway houses are occupied and the roads and footways are constructed there is no access point of an adoptable standard into or out of the east side of this site. This would leave this site with only one accessible point of access and safe route to school, which would be in the southwest corner of the site. To ensure permeability and access for all, including a safe route to school there must also be an access from the east side of the site via the core path onto Main Street. Whilst it was made a condition of planning permission 18/00090/PM that the core path be upgraded, this was not to be to an adoptable standard. Therefore, it shall be made a condition of any grant of planning permission that the section of core path between the access point leading from between plots 85 and 86 south down to Mayfair gardens shall be upgraded to adoptable standard. Subject to this planning control the future occupants of the development will be have safe pedestrian and cycle links within the site and also to the wider footway network of Macmerry. Subject to the imposition of those aforementioned conditions the proposals are consistent with Policies T1, T2, T3 and T4 of the adopted East Lothian Local Development Plan 2018.

In terms of wildlife and biodiversity, **the Council's Biodiversity Officer** raises no objection to the application. It is noted that the site is dominated by arable fields with limited wildlife value and is satisfied the proposal would not have a harmful impact on existing biodiversity or species thus the proposal is consistent with Policy NH5 of the ELLDP 2018.

The Council's Waste Services raise no objection to the application. However plots 1-3, 26-46, 56&57, 62 -85, 137-142, 102-120, should present bins for collection at the kerbside and not in car parking area. Bin collection points have not been shown on the layout plan to demonstrate that sufficient space would be provided to accommodate these or enable their assessment. The location of bin collection points can be made a condition of a grant of planning permission. The proposal is therefore consistent with Policy W3 of the adopted East Lothian Local Development Plan 2018.

If granted planning permission a condition can reasonably be imposed on it to require the submission of a construction method statement detailing how developers will mitigate the impact of construction on nearby residents and the area.

The applicant has submitted a Flood Risk Assessment. This concludes that the site is not considered to be at significant risk of surface water flooding, assuming sensible mitigation measures are taken, as outlined in Sections 5.2 and 5.4. As this assumes 'suitable drainage system' and both SEPA and **The Council's Flooding and Structure Service** have asked for additional information to assess the drainage from the site it cannot be concluded that there is not a risk of flooding on the site. Therefore the proposals do not conflict with Policy NH11 of the adopted East Lothian Local

Development Plan.

SEPA do not raise an objection to the proposal. They do advise that the applicants should provide the outputs of the Simple Index Assessment Tool to demonstrate adequate levels of treatment will be provided for the site. Therefore, at this stage it has not been demonstrated that the treatment of a SuDS basin and filter trench is sufficient.

In respect of SuDS provision, this is shown within the northeast corner of the site and would take the form of underground storage tanks. The land above the storage tanks is to be grassed over and used as public open space. The Council's Flooding and Structures Service raises no objection to the application provided details are provided of the SuDS which should include evidence of technical approval by Scottish Water. Subject to the imposition of that condition the proposal is consistent with Policy NH10 of the adopted East Lothian Local Development Plan.

Scottish Water raise no objection to the proposal. They confirm that there is currently sufficient capacity in the Castle Moffat Water Treatment Works and Edinburgh Waste Water Treatment Works, although a formal application for connection to their systems will be required. They also note that there are existing sewers within the application sites.

The Council's Environmental Health Manager has advised that in pre-application consultation he raised concerns regarding impacts arising from the operational phase of the development upon the existing local air quality on Tranent High Street and requested that these be assessed. He also advised that the assessment should also consider cumulative impacts upon Air Quality in Tranent High Street associated with this development in conjunction with any other consented development within the Tranent Area and should take account of Environmental Protection UK/IAQM document "Land-use Planning & Development Control: Planning For Air Quality, May 2015" to determine significance of any impacts. An Air Quality Impact Assessment has been submitted and the Council's Environmental Health Manager advises that the proposal would not exacerbate air quality issues to an unacceptable contrary to Policy NH12 of the ELLDP.

The Council's Environmental Health Manager has advised that in this instance a noise report is not required due to the distance from the A1 and that the proposal is not contrary to Policy NH13 of the adopted East Lothian Local Development Plan.

The site is within a Coal Authority High Risk Development. A Coal mining Risk Assessment was submitted with the application and The Coal Authority was consulted on this document.

The Coal Authority advised that they concur with the recommendations of the Ground Investigation Report (RG606-52/MAK, January 2018) based on the professional opinion of Johnson Poole and Bloomer Ltd; that shallow coal mining impacts on the safety and stability of the entire development site. They raise no objection provided a condition is attached to any permission to ensure that remedial works are undertaken on site prior to commencement of development.

The Council's Contaminated Land Officer has reviewed the site investigation reports and raises no objection. He is satisfied that the investigative works and subsequent assessments have been carried out in accordance with best practice guidelines and the relevant standards. He would also concur with the findings that there is no evidence to suggest any contamination exists on the site that may impact on human health or the water environment. Certain remedial measures will be required, however, as elevated levels of carbon dioxide were found throughout the site necessitating the installation of gas prevention measures. The site will also require extensive ground stabilisation works

due to the presence of shallow mine workings, which may well impact on the existing gas regime.

Therefore, they raise no objection subject to conditions to ensure a remedial strategy for gas, a validation report and gas monitoring is secured.

Policy DCN2 requires the provision of broadband connectivity in new developments. In this instance the applicant's agent has confirmed that it is the applicant's intention to work with the available infrastructure providers. This will enable connectivity to the appropriate telecommunications networks through provision of suitable ducting. Therefore provided the infrastructure is in place it can easily be linked into this development. However, this is reliant on the telecommunications providers. Therefore the proposal does not conflict with Policy DCN2 of the adopted East Lothian Local Development Plan 2018.

The East Lothian Council Health and Social Care Partnership raises no objection to the current proposal and advises that health services have the ability to service the number of housing units proposed in this application.

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be imposed on all applications for planning permission except Section 42 applications, householder applications, design changes, changes of use, non householder alterations and extensions, or where it is not considered reasonable by the Planning Officer. As this application is for new build development such a condition should be imposed on a grant of planning permission for the proposed development.

On all of these foregoing findings on matters of design, layout, open space, landscaping and amenity the proposed development complies with Policies DP1, DP2, DP3, DP9, DCN2, OS3, OS4, W3, T1, T2, T3, T4, NH5, NH10, NH11, NH12 and NH13 of the East Lothian Local Development Plan 2018 and the Scottish Government Policy Statement entitled "Designing Streets".

Consideration must then be given to the potential impact of the proposed development on the infrastructure of the area. Taking into account the approved site to the east the total number of units on the TT7 would be 242.

Policy Del1 of the ELLDP 2018 stipulates that new housing will only be permitted where appropriate provision for infrastructure, required as a consequence of the development, is made. Policy T32 of the ELLDP 2018 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.

The SEStran Regional Model (SRM) which informed the Transport Assessment supporting the East Lothian Local Development Plan was run using the assumption of 150 residential units, as per the site allocation. Due to the proposed increase in units, **the Council's Road Services** required that the SRM be re-run to take account of predicted increased number of units for the TT7 site when considering planning application

18/00090/PM for the eastern part of the TT7 site. At the time this was 242 units. This was needed to assess whether the road network would be able to accommodate the increase in unit numbers. The applicant commissioned additional modelling to assess the transport impact of an additional 92 units on the TT7 site and the results were summarised in a technical note from PBA consultants. This confirmed that the incremental difference from the increased number of units would not be significant in terms of the road network. The Council's Road Service agree with the findings of the assessment that a 242 unit development of the whole TT7 site shall have a cumulative impact on the wider strategic road network which can be accommodated within the local road network in terms of road capacity. The current application would result in an additional 2 units. The Council's Roads Service have considered the differential between ELLDP 2018 site allocation and the site intensification and are satisfied no additional model runs are necessary to test the site acceptability. They consider the change to be so minor as not to make a material change to the performance of the transport network. Therefore, a further model run is not required to be carried out by the current applicant.

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.

For the Macmerry North TT7 site the requirement for developer contributions towards each transport intervention as identified in the Developer Contributions Framework. As the overall number of units on the site are predicted to be 242 units, the contribution for the site have been applied on a pro rata basis for the number of units proposed by this application. Although this application would take the total TT7 units to 244, this 2 unit increase from 242 is not considered significant to considered that the assessment requires to be updated The contributions required for each intervention for this application are detailed below:

- * Improvements to Old Craighall junction (PROP T15) £1,651
- * Improvements to Salters Road Interchange £1274
- * Bankton Interchange (PROP T17): £6164
- * Musselburgh Town Centre improvements (PROP T21): £1,928
- * Tranent Town Centre Improvements (PROP T27 and T28) £15,521

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £26,538.

This site is not within a rail contribution zone and no contributions are required for rail improvements.

The site is within the Segregated Active Travel Contribution zone and therefore a contribution, as required by Policy T3 of the ELLDP and the DCF should be secured. This contribution is based on a per dwelling rate of £492, therefore giving a total of £69,864 for this site.

The total developer contributions towards the transportation interventions of £96,402 (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 Council's Depute Chief Executive (Resources and People Services) informs that the application site is located within the school catchment areas of Macmerry Primary School and Tranent High School.

He advises that Macmerry Primary School and Ross High School do not have sufficient capacity to accommodate children that could arise from the proposed development, therefore he objects to the application on the grounds of lack of permanent capacity at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of £500,266 towards the provision of additional school accommodation at Macmerry Primary School and £671,944 towards an extension at Ross High School.

The required payment of a financial contribution of a total of £1,172,120 towards the provision of additional accommodation at Macmerry Primary School and Ross High 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, and Policies ED4 and which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made.

The Council's Sports Dev & Community Recreation Manager has advised that as the number of residential units that would be built on the overall TT7 site would exceed 200 units this triggers a requirement for a small sports pitch (60 metres by 40 metres) to be provided within the site or a contribution towards sports facilities within Macmerry. There is no sports pitch proposed on this site through this application. However, the applicant has agreed in principle to a pro rata contribution to the value of a small sided grass pitch at the cost of £92,500. This amount divided by the 244 units now proposed across the whole TT7 site would result in a per dwelling payment of £379.10 per dwelling and total cost for the current proposal of £53,832. This contribution can be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal Agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements.

Subject to the payment of the required contribution towards transport interventions, segregated active travel, sports pitch provision and education provision, which the applicants have confirmed they are willing to make, the proposal is consistent with Policies DEL1, CF1 and T32 of the ELLDP 2018.

Policy HOU3 of the ELLDP 2018 requires that developments of five or more dwellings must make provision for affordable housing at a rate of 25% of the total number of dwellings proposed for the site. **The Council's Economic Development and Strategic Investment Manager** advises that in accordance with the Council's Affordable Housing Policy, 25% of the proposed 142 residential units, or 36 units, require to be affordable housing.

The Council's Economic Development and Strategic Investment Service has advised that they are satisfied with the proposed mix of affordable housing. Overall the design and layout of the affordable housing is acceptable. Therefore, the proposal does comply with Policy HOU3 of the ELLDP.

However, if granted terms for the provision of this affordable housing requirement can be

the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant is willing to do and is shown on the drawings submitted, the proposal would be consistent with Policies HOU3 and HOU4 of ELLDP.

In summary, in the context of the site being part of housing allocation PROP TT7 of the East Lothian Local Development Plan 2018, and in that its impacts in respect of amenity and technical considerations are acceptable in themselves, or can be mitigated through the appropriate use of planning conditions and necessary developer contributions, the significant material considerations of this case supports the proposed residential development of the site. Although the number of units proposed is significantly higher than the pro rata number that would be expected on this part of the site, the site is capable of accommodating the proposed development including vehicular and pedestrian access and amenity space. A grant of planning permission would be consistent with Scottish Planning Policy: June 2014, SESplan Policy 7 and relevant East Lothian Local Development Plan policies of the adopted East Lothian Local Development Plan 2018.

RECOMMENDATION

It is recommended that planning permission be granted subject to:

1. The undernoted conditions.
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:
 - (i) a financial contribution to the Council of £671,944 towards the provision of additional accommodation at Ross High School
 - (ii) a financial contribution to the Council of £500,266 towards the provision of additional accommodation at Macmerry Primary School;
 - (ii) 36 affordable residential units within the application site
 - (iii) a financial contribution to the Council of £ 53,832.20 towards the off site provision of sporting provision in Macmerry
 - (iv) secure a financial contribution to the Council of £26,538 for transport improvements. (Comprised of £1,651 for road improvements to Old Cragihall Junction, £1,274 for Salters Road Interchange, £6,164 for Bankton Interchange, £1,928 for Musselburgh town centre improvements and £15,521 for Tranent Town Centre improvements).
 - (v) secure a financial contribution to the Council of £69,864 towards a Segregated 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 Macmerry Primary and Ross High School, a lack of

provision of affordable housing, sports provision, a lack of roads and transport infrastructure improvements contrary to, as applicable, Policies INF3, H4 and C2 of the adopted East Lothian Local Plan 2008 and ED4, DEL1, HOU3, OS4, T3 and T32 of the East Lothian Local Development Plan.

- 1 No works shall commence on site unless and until a vehicular crossing is provided across the core path from the application site hereby approved to connect to the road on the adjoining site on the east side of the core path in accordance with the positioning of it shown on site layout drawing 760/002 Rev W. Details of the crossing point including how it will integrate with the core path shall be submitted to and approved by the Planning Authority prior to its installation and thereafter, unless otherwise agreed by the Planning Authority shall be installed on the core path in accordance with those approved details.

Reason;

In the interests of road safety.

- 2 Prior to the commencement of development hereby approved a continuous footpath route of adoptable standards with lighting shall be provided on the core path no. 455 adjacent to the east boundary of the site. The continuous length of footpath will run from a point adjacent to the new footpath to be formed between plots 85 and 86/87 within the site and shall run southwards into Mountfair Gardens and shall include the provision of dropped kerbs within Mountfair Gardens all in accordance with East Lothian Council's Standards for Development Roads. The details and timetable for the provision of the footpath shall be submitted to and approved by the Planning Authority prior to the commencement of development on the site to form the path.

Thereafter, the continuous footpath route shall be provided and delivered in accordance with the details so approved.

Reason:

To provide a safe pedestrian access from the east side of the site to Main Street and a safe route to Macmerry Primary school, in the interests of road safety.

- 3 Prior to the commencement of development, final site setting out details shall be submitted to and approved in writing by the Planning Authority.

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

a. the position within the application site of all elements of the proposed development and the position of adjoining roads, land and buildings;

b. finished ground levels and finished floor levels of the development relative to existing ground levels of the site and existing ground and road levels of adjoining land. The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and

c. the ridge height of the proposed buildings hereby approved, shown in relation to the finished ground and finished floor levels on the site.

Thereafter, the details shall be implemented as approved.

Reason:

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

- 4 Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses and cottage flats of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses and cottage flats shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. However, some use of a contrasting wall finish (i.e. reconstituted stone or facing brick) would be acceptable providing it is limited to a distinctively complete feature of the houses and flats and respectful of their design integrity. All such materials used in the construction of the houses

shall conform to the details so approved.

Reason:

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

- 5 Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street. Notwithstanding that shown on the docketed site plan 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;

Reason:

In the interests of ensuring active frontages and to enhance character and appearance of the area.

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

Notwithstanding that shown on the drawings docketed to this planning permission, the boundary enclosures shown on those drawings are not hereby approved. Instead, and prior to the commencement of development, revised details of all boundary enclosures to be erected on the application site, and the timescales for their provision, shall be submitted to and approved in advance by the Planning Authority. Those details shall show 1.8 metre high solid enclosures around rear gardens of the houses hereby approved except where those boundaries are adjacent to a road or pathway where they shall be some other form of enclosure such as feature walls or hedges to heights and finishes to be approved in advance by the Planning Authority.

Details submitted shall also include the design, construction and materials of the entrance feature walls at the main accesses to the site.

Reason:

To ensure the satisfactory provision of the boundary enclosures in the interest of safeguarding the visual amenity of the area and to safeguard the privacy and amenity of residential properties nearby.

- 7 A play area with equipment suitable for children aged 5 to 12 years shall be provided on the area of open space of the application site which is to the east of plots 122 to 126 and to the west of plots 25 to 29, as shown on approved Development Layout 760/002 Rev W.

Prior to the commencement of development on site details of the play equipment and surfacing materials to be installed in the play area and a timetable for its installation shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the play equipment shall be installed in accordance with the details so approved. The equipped play area shall thereafter be retained in perpetuity and kept available for use.

Reason:

To ensure that suitable play equipment is installed and thereafter retained.

- 8 Prior to any use being made of the junction onto the A199 visibility splays of 4.5 metres by 160 metres must be provided and maintained on the western side of the proposed access junction with the A199 and 4.5m by 70 metres on the eastern side of the junction with the A199 such that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway level within the area defined below:-

- a) A line 4.5 metres long measured along the access road from the nearside edge of the main road carriageway.
- b) A line 160m long for the west side and 70m long for the east side measured along the nearside edge of the main road carriageway from the centre of the access road in both directions.
- c) A straight line joining the termination of the above two lines.

The development shall also comply with the following transportation requirements:

- (i) All roads and paths shall conform to East Lothian Council Standards for Development Roads;

(ii) driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;

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

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

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

Reason:

In the interests of road safety.

- 9 Prior to the commencement of development full details of the scheme of works to provide a signal controlled junction incorporating pedestrian/cycle crossing at the new junction into the site from the A199 as shown on docketed drawing 760/002 REV W shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the signalised junction shall be installed and operational prior to the occupation of any dwelling on the application site.

Reason:

To ensure measures are implemented to control traffic at this junction to address the increase in anticipated vehicles movements from the proposed development in the interest of road safety.

- 10 Prior to the occupation of any dwelling hereby approved, details of a Green Travel Plan shall be submitted to and approved in writing by the Planning Authority. This should seek to encourage the minimisation of private car trips and increased use of active means of travel and the use of public transport.

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.

Thereafter, the Green Travel Plan shall be implemented as per the approved details.

Reason: To encourage sustainable and active travel in the interests of environmental and residential amenity.

- 11 Prior to the commencement of development, a Construction Method Statement which sets out how the impact of construction activity on the safety and amenity of the area will be mitigated shall be submitted to and approved by the Planning Authority.

The Construction Method Statement shall include details of:

* Mitigation measures to control noise, dust, construction traffic (including routes to/from site).

* Hours of construction work

* Temporary measures to be put in place to control surface water drainage during the construction works

* Routes for construction traffic

* Wheel washing facilities.

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

Reason:

To retain control of the operation of construction in the interest of environmental and residential amenity.

- 12 Prior to the commencement of development a timetable for the submission of a Road Safety Audit shall be submitted to and approved by the Planning Authority. Thereafter, in accordance with that agreed timetable, the Road Safety Audit will shall be submitted for the site (internal) and A199 (external) roadworks. This process must be completed through Stages 1, 2, 3 & 4 which are Preliminary Design, Completion of Detailed Design, Completion of Construction & Post Opening Monitoring using 12 months of validated post scheme opening road traffic collision data - all in accordance with GG119 Road Safety Audit Rev1. The Road Safety Audit to include; the proposed access junction to A199, junction with adjoining housing development site to east, new footways/cyclepaths, pedestrian crossings and double 'D' islands where provided

After each Stage of Road Safety Audit/Assessment, the approved measures shall be implemented as approved.

Reason:

In the interests of road safety.

- 13 A plan clearly detailing all communal areas to be maintained by a Factor or Residents Association shall be submitted to and approved by the Planning Authority prior to the occupation of any residential units hereby approved. The maintenance of all communal landscape areas and hedges to private front gardens as detailed on the approved details of landscaping shall be adopted and maintained by a Factor or a Residents Association. All communal areas detailed on this drawing shall be retained as communal open space in perpetuity.

Reasons:

To ensure the retention and maintenance of open space and landscaping on the site in the interest of amenity.

- 14 A scheme of landscaping shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development. The scheme shall provide details of: the height and slopes of any mounding on or re-contouring of the site including SUDS basin/ponds details; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. Non-thorn shrub species should be located adjacent to pedestrian areas. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

In particular the scheme shall include:

- o A landscape feature framing the village entrance to the west of plot 2 to include large species, standard sized trees and shrub planting.
- o A mixed species hedge the complete length of the west/north/northwest boundary.
- o Regular small groups of small and medium sized species standard trees to the open space adjacent to the west/north/northwest boundary such as birch, whitebeam, field maple and cherry.
- o Medium sized standard trees between plots 8 and 9.
- o A large species standard tree in the open space west of plot 128.
- o A feature group of medium sized species standard trees such as birch in the open space west of plots 123/124.
- o Central open space to be designed with groups of large species standard trees, such as horse chestnut, sweet chestnut, oak and lime; multi stem birch trees; mounds; seating; and formal and natural play.
- o Medium sized species standard trees such as whitebeam, birch and field maple to the open space to the southern boundary outwith the sewer wayleave.
- o Medium sized standard trees to the parking courts south of plot 57 and at plots 58, 63, 68, 71, 87 and 101, and 101 and 102.
- o Groups of standard trees and shrub planting around the SUDS basins in the northeast corner.
- o Hedges to front gardens of plots 17-21, 29, 30, 50, 51, 52, 62-67, 81-92, 111-115, 120, 121.
- o Hedges to south and east of parking court east of plot 54.
- o Hedges to open space side of drives to plots 122-125 and 27-28.

Thereafter, and unless otherwise agreed by the Planning Authority the landscape scheme shall be carried out in accordance with the details so approved.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development or occupation of any house hereby approved, whichever is the sooner. 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, hedges or shrubs, detailed in the approved landscaping plans 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 the interests of achieving an attractive development.

- 15 Prior to the commencement of development on site full details of the proposed bin presentation areas within the application site shall be submitted to and approved in writing by the Planning Authority. These details shall include ground finishes, boundary treatments and the design and position of signage to identify which dwellings are to use each area. Thereafter, the details shall be implemented as approved.

Reason:

To allow the consideration of details yet to be submitted and in the interests of residential amenity.

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

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

*Year 1 - 15 dwellings completed

*Year 2 - 25 dwellings completed

*Year 3 - 25 dwellings completed

*Year 4 - 25 dwellings completed

*Year 5 - 25 dwellings completed

*Year 6 - 27 dwellings completed

(b) If fewer than the specified number of residential units is completed in any one year then those shall be completed instead at Year 6 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.

- 17 Prior to the commencement of development on site the implementation of stabilisation works as identified within the Ground Investigation Report prepared by Johnson Poole and Bloomer Ltd (ref: RG606-52/MAK January 2018) shall be undertaken and confirmation of the completion of these works submitted to and approved in writing by the planning authority in consultation with The Coal Authority.

Reason:

To ensure that the stabilisation works proposed are carried out in the interest of health and safety and environmental protection.

- 18 Prior to the commencement of development a Remedial Strategy detailing gas prevention measures to be installed and procedures to verify these measures shall be submitted to and approved in writing by the Planning Authority. Thereafter, the gas prevention measures and verification procedures shall be implemented as approved.

Prior to the occupation of any dwelling hereby approved, a Validation Report, detailing the satisfactory completion of the remedial works, shall be submitted to and approved in writing by the Planning Authority.

Gas monitoring wells should be established at the boundaries of the site during the ground stabilisation works, with a suitable period of monitoring being carried out. Upon completion of the monitoring, a Gas Risk Assessment should be submitted to the Planning Authority detailing the potential for off-site gas migration.

Reason:

To allow the consideration of details to be submitted and ensuring that the installations are fit for purpose in the interests of environmental protection.

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

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

Thereafter, the approved details shall be implemented as approved.

Reason:

To ensure that the final SuDS design complies with Sewers for Scotland 3 and can be vested by Scottish Water in the interest of flood prevention, environmental protection and the long term amenity of the area.

- 20 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.

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

REPORT TO: Planning Committee
MEETING DATE: Wednesday 24 June 2020
BY: Head of Development
SUBJECT: Application for Planning Permission for Consideration

4

Application No. **19/01208/P**
Proposal Erection of chalet, shed and associated works (Retrospective)
Location **Hodges Farm
The Boggs
Pencaitland
Tranent
East Lothian
EH34 5BG**
Applicant Mr Ian Hodge

RECOMMENDATION **Application Refused**

REPORT OF HANDLING

PROPOSAL

The land the subject of this application is a roughly square shaped area of woodland measuring 0.01 hectares in size and is located within the countryside of East Lothian as designated by Policy DC1 of the East Lothian Local Development Plan 2018.

The site is within the ownership of the applicant and is located within an area of woodland known as Butterdean Wood. The wider woodland is bounded to the north by Hodges Farmhouse and garden, to the east by agricultural land, to the west by an existing private access road and public right of way and to the south by the U127 public road.

The nearest residential property to the application site is Hodges Farmhouse (the applicant) some 40 meters to the north. The property of Butterdean Cottage is some 108 meters to the northeast of the site, and those of numbers 1 and 2 Smuddle Ha are located some 100 meters to the south.

The site is accessed by a footpath from the garden ground of Hodges Farmhouse. There is no direct vehicular access to the application site.

The application site is within a defined Coal Authority Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

In March 1997 planning permission (Ref: P/00117/97) was granted for a change of use of a yard at Hodges Farm to form a storage area for caravans. This was a temporary permission until 12th March 1999. After this time no further permission was sought and the consent expired.

In July 2000 planning permission (Ref: 00/00575/FUL) was granted for a change of use of agricultural land to form an enclosed raised horse exercise area at Hodges Farm.

Section 150 (4) of the Town and Country Planning (Scotland) Act 1997 states that an application can be made to the planning authority seeking a certificate of lawful use. If the application provides the Planning Authority with information that satisfies them of the lawfulness, at the time of the application, of the use, operations or other matter described in the application, or that description as modified by the planning authority or a description substituted by them, they are required to issue a certificate to that effect. In January 2018 a Certificate of Lawfulness (Ref: 17/01137/CLU) was granted to the applicant for the existing horse livery yard with storage buildings and for touring caravan storage at Hodges Farm.

In July 2016 a pre-application enquiry ref: 16/00206/PREAPP was made to the Council as Planning Authority by the applicant in respect of the building of a new house on Hodges Farm. The advice given was that Policy DC1 of the adopted East Lothian Plan 2008 would not support an application for a new build house in the countryside unless it could be demonstrated that there was a need for the new house to support an existing agricultural or horticultural business.

In September 2017 a pre-application enquiry ref: 17/00247/PREAPP was made to the Council as Planning Authority by the applicant in respect of the siting of a chalet on Hodges Farm which would be to accommodate his elderly in-laws. The advice given was again that Policy DC1 of the adopted East Lothian Local Plan would not support the siting of a chalet for permanent residential use unless it could be demonstrated that there was an operational need for the new residential unit to support an existing business.

In January 2019 a third pre-application enquiry ref 19/00006/PREAPP was made to the Council as Planning Authority by the applicant in respect of the clearing of some derelict buildings on Hodges Farm and the erection of a new house on that cleared site. The advice given was that the newly adopted East Lothian Local Development Plan 2018 did not support a new build house in the countryside unless it could be demonstrated through the submission of evidence that the new house was a direct requirement of an existing business in the countryside.

Planning permission is now sought retrospectively for the erection of a chalet, shed and associated works that include the formation of a timber recycling area, a timber decking area, a raised timber planter, a hardsurface path and a 1.2 meter high timber fence. The chalet is currently in use as a 2-bedroom residential unit by the applicant's mother and father in-law and the applicant's agent has confirmed that it is their permanent residence. Therefore as it is in residential use it is a new house in the countryside.

The chalet is clad in dark oak timber with a pitched roof consisting of green felt-covered concrete tiles. It has a floor area of some 70 square meters and faces northwest within the site.

The northwest (front) elevation of the chalet has a main entrance door opening and 4 window openings facing into the site. A further 4 window openings are on the southeast (rear) elevation overlooking woodland. 2 large window openings, one of which is of a double patio door style, are on the northeast elevation overlooking an agricultural field.

The timber recycling area, shed and decking area are sited adjacent to the north boundary. The raised planter abuts the west boundary fence. The hardsurface path has been formed in brick paviour and provides a link between the shed and chalet.

The applicant has submitted a statement in support of the application. The statement asserts that Hodges Farm is a mixed farm of 72 acres of arable land, horse livery, sheep and storage. The main focus of the farm is tending to livestock which at certain times of the year is labour intensive, for example at lambing time. During the summer month's time is spent preparing horses for shows. Although storage is a large part of the business much of the work centres around livestock. Additionally some 200 caravans are stored on site. The applicant states that they have been a victim of rural crime on occasions when they were not present on the farm. To safeguard the site the farm is locked up at 10pm every night and opened at 7am.

The farmhouse at Hodges Farm is occupied by the applicant and his family. The chalet is occupied by the applicant's mother and father in law who help out with childcare on occasion. Previously they resided in Dunbar and would need to make the 20 mile trip to help out if needed. They are also available to assist in security of the site.

The statement asserts that the application is made retrospectively because the applicant did not realise that planning permission would be required for the chalet as it is sited in the garden orchard.

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 relevant policies contained within the adopted South East Scotland Strategic Development Plan (SESplan). Policies DC1 (Rural Diversification), DC4 (New Build Housing in the Countryside), DC5 (Housing as Enabling Development), DP1 (Landscape Character), DP2 (Design), NH8 (Trees and Development and T2 (General Transport Impact) of the East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Also material to the determination of the application is Scottish Government guidance given in Scottish Planning Policy: June 2014.

In Paragraph 76 of Scottish Planning Policy: June 2014 it is stated that Local Development Plans should make provision for most new urban development to take place within or in planned extension to existing settlements. Paragraph 81 states that in accessible or pressured rural areas, where there is a danger of unsustainable growth in long distance car based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate.

In Paragraph 83 it is stated that in remote rural areas, where new development can often help to sustain fragile communities, sustainable development that would provide employment and that would support and sustain fragile and dispersed communities through provision of appropriate development should be supported.

It is stated in paragraphs 5.1 and 5.2 of the adopted East Lothian Local Development Plan 2018 that while the LDP's spatial strategy guides the majority of new development to existing settlements in the interests of promoting sustainable travel patterns, it also seeks to support

the diversification of the rural economy and the ongoing sustainability of the countryside and coast through support in principle for agriculture, horticulture, forestry and countryside recreation, as well as other forms of appropriate business, leisure and tourism developments. New rural development should be introduced sensitively to avoid harming the characteristics that attract people to live, work and visit East Lothian's countryside and coast.

Paragraph 5.10 of the adopted East Lothian Local Development Plan 2018 states that the LDP has a general presumption against new housing in the countryside but exceptionally a new house may be justified on the basis of an operational requirement of a rural business. In such circumstances, appropriate evidence clearly demonstrating the need for a new dwelling on the particular site in association with the business will be required. Such evidence should include that no suitable existing dwelling has been recently made unavailable for that purpose and that there is no existing building that could be converted to a house.

Policy DC1 sets out specific criteria for new development in the countryside, stating that there will be support in principle for new development where it is for agriculture, horticulture, forestry or countryside recreation; or other businesses that have an operational requirement for a countryside location, including tourism and leisure uses.

Policy DC4 sets out specific criteria for the erection of new build housing in the countryside, and allows for new build housing development in the countryside where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use. Policy DC4 also allows for other small scale housing proposals that form a logical addition to an existing small scale rural settlement where they are promoted for affordable housing and evidence of need is provided and the registered affordable housing provider will ensure that the dwelling(s) will remain affordable for the longer term.

Policy DC5 sets out specific criteria for the exceptional circumstances where the erection of housing as enabling development in the countryside may be supported. Any such new housing development in the countryside should: (a) enable a desirable primary use supported in principle by criterion by Policy DC1 and the benefits of the primary use outweighs the normal presumption against new build housing in the countryside; or (b) fund the restoration of a listed building or other buildings of recognised heritage value, or other significant designated feature of the built or natural environment, the retention of which is desirable, and should satisfy the terms of Policies CH1 and where relevant CH6, and can be clearly demonstrated to be the only means of preventing the loss of the asset and secure its long-term future; and (c) the proposal satisfies the terms of Policy NH1. In all cases, the benefits of the proposed development must outweigh the normal presumption against new build housing development in the countryside.

REPRESENTATIONS

A total of 11 public objections to the application have been received.

The main ground of objection are:

- i) There is no operational requirement for the erection of a residential chalet on the farm;
- ii) Trees have been removed unlawfully to facilitate development;
- iii) The chalet is visible from public view;
- iv) Concerns over water provision and foul water discharge;
- v) Damage to native wildlife species through tree removal;
- vi) Increased traffic movements;

- vii) no information on the levels of the site;
- viii) neighbour notification;
- ix) SEPA and SNH have not been consulted;
- x) The applicant has carried out previous unauthorised development that has been the subject of planning enforcement investigation.

It is unclear what the issues with neighbour notification were. Records show that all relevant neighbouring properties within 20m of the red line outline of the application site were notified of the application, which is in accordance with the statutory requirements of legislation.

Sufficient information was submitted by the applicant to validate and register the application. There is no requirement to submit information on levels in order to determine the application. Furthermore, if required, details of the ground levels of the site and any changes to it, can be requested for approval as a condition of a grant of planning permission.

The matters of water provision and foul water discharge are controlled through legislation other than through Planning. Thus they are matters relevant to the Building Standards and Scottish Water and are not material planning considerations in the determination of this planning application.

The application site is not within an area of flood risk nor is it within any listed wildlife sites. Therefore and due to the nature of the application there is no requirement to consult either SEPA or SNH on the application.

The matter of the applicant having in the past carried out alleged unauthorised development does not prevent the submission of this retrospective planning permission for the chalet or the Council as Planning Authority determining this application.

PLANNING ASSESSMENT

Due to the siting of the chalet and associated development within a wooded area they are not readily visible from outwith the wooded area. Furthermore due to its distance from neighbouring residential properties the chalet does not result in a loss of amenity through overlooking or overshadowing to any neighbouring residential properties.

The Council's Biodiversity Officer was consulted on the application consulted but has made no comment on it.

Council Road Services were consulted on the application and have no objection to the application being satisfied that the siting of the chalet does not cause a risk to road safety, and is not contrary to Policy T2 of the adopted East Lothian Local Development Plan 2018.

The Council's Environmental Protection Manager was consulted on the application and makes no comment.

Scottish Water makes no objection to the application.

The application site is in a countryside location within East Lothian and is part of a much larger area that is characterised by a low density dispersed built form within an agricultural landscape. It is not identified in the adopted East Lothian Local Development Plan 2018 as being within a settlement and the Local Development Plan does not allocate the land of the site for housing development.

Consequently, the principle of the erection of one house on the application site must be assessed against national, strategic and local planning policy relating to the control of new housing development in the countryside.

The application is within a wooded field at Hodges Farm. The wooded field is enclosed to the east by a 1.5 meter high post and wire fence the primary purpose of which is to enclose an agricultural field which is to the east of the site. Otherwise the site is enclosed on the north, west and south boundaries by a newly erected 1.2 meter high timber fence with a gated access.

The Scottish Government's Policy on Control of Woodland Removal states:

- There is a strong presumption in favour of protecting Scotland's woodland resources;
- Woodland removal should be allowed only where it would achieve significant and clearly defined additional public benefits;

In siting the chalet, shed and associated works at this location a number of trees have been felled and the site cleared. In response to complaints of unauthorised tree felling at Hodges Farm Scottish Forestry investigated the tree felling, between October 2019 and January 2020. Based on findings Scottish Forestry have confirmed that no further action has been taken. This was due to the submission of the planning application, which was made in November 2019, and the subsequent control being given to the Council as Planning Authority to investigate and assess the felling of the trees.

Scottish Forestry were however consulted on the current planning application and have advised that they do not support the application due to the unauthorised removal of Native Woodland that has been undertaken on the site.

Policy NH8 of the adopted East Lothian Local Development Plan states that there is a strong presumption in favour of protecting East Lothian's woodland resources. Part b (i) of Policy NH8 states that Development affecting trees or groups of trees or areas of woodland will only be permitted where, in the case of woodland, its loss is essential to facilitate development that would achieve significant and clearly defined additional public benefits in line with Scottish Governments Policy on Control of Woodland Removal.

In this instance the removal of the woodland was not to achieve additional public benefits and is contrary to the guidance within The Scottish Government's Policy on Control of Woodland and Policy NH8 of the ELLDP 2018.

The Council's Landscape Officer was consulted on the application. He advises that he does not support the application as the loss of trees is contrary to Policy NH8 of the adopted East Lothian Local Development Plan 2018 and that the chalet, shed and associated works be removed from site and the woodland replanted.

He advised that if there are material planning considerations that outweigh the loss of trees and result in the chalet and associated structures being retained on site he advises that as no arboricultural impact assessment has been submitted it is unclear whether the siting of the chalet and associated structures will result in any further tree loss. Therefore he recommends that, if the chalet is not to be removed from site a detailed arboricultural impact assessment be carried out specifically on the safety of the retained trees that have had their root protection areas significantly encroached upon by the development, as such assessment may result in the loss of further trees. If in the event the application were to be granted planning permission a condition should be attached to it requiring new tree planting to mitigate the loss of the existing trees.

As stated above policy DC4 sets out specific criteria if the erection of new housing in the countryside is to be supported. Where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use then a new house may be supported.

A statement submitted in support of the application states that Hodges Farm operates as a business involving farming, horse livery and storage. The statement lists various functions the applicant may be called upon to perform to facilitate the running of the businesses. However, other than the provision of occasional childcare and additional security for the site the statement does not set out or explain how the occupants of the chalet will contribute to the operations of the business. Moreover, the applicant has presented no evidence to demonstrate why other security measures could not be used to deter and seek to prevent the farm and business being a victim of criminal activities. On this matter, there are many other farms and rural businesses operating in the countryside that do not require an additional house to be constructed on site to provide additional security for the business. Consequently there is no justification of need for a residential unit to be located on site to bolster security.

The applicant was advised on two occasions that insufficient information had been submitted to satisfy the Council as Planning Authority that the house was a direct operational requirement of the business. Therefore further information was requested on the operations of the business. However, no further information has been submitted in support of the application.

The submitted supporting statement advances no case for a residential unit being built on the application site to meet a direct operational requirement of an agricultural, horticultural, forestry or other employment use. The provision of occasional child care and the additional security of the site are not operational requirements of the farm business that would justify the erection or provision of a new house or residential unit. Therefore the erection of the chalet on the site is contrary to Policy DC4 of the East Lothian Local Development Plan 2018.

Furthermore the supporting statement does not seek to promote the erection of the chalet on the application site to enable a desirable primary use supported in principle by criterion b of Policy DC1, contrary to Policy DC5 of the East Lothian Local Development Plan 2018.

In the absence of any direct operational requirement for the erection of a house on the application site, or any justification of enabling development, the principle of such development on the site is inconsistent with national, strategic and local planning policy and guidance concerning the control of development of new build houses in the countryside.

Specifically, the erection of the chalet (residential unit) on the site is contrary to Policies DC1, DC4 and DC5 of the adopted East Lothian Local Development Plan 2018, and Scottish Government policy guidance regarding the control of new housing development in the countryside given in Scottish Planning Policy: June 2014.

If approved the siting of the chalet (residential unit) would set an undesirable precedent for the development of new houses in similar circumstances elsewhere in the East Lothian countryside, the cumulative effect of which would result in a detrimental impact on the rural character and amenity of the countryside of East Lothian.

There are no material planning considerations that outweigh the fact that the development is contrary to Policies DC1, DC4 and DC5 of the adopted East Lothian Local Development Plan 2018, and Scottish Government policy guidance regarding the control of new housing development in the countryside given in Scottish Planning Policy: June 2014.

Given the location of the site within a Development High Risk Area for coal mining legacy **the Coal Authority** have been consulted on this application. The applicant has not provided a Coal Mining Risk Assessment Report in support of the application. Therefore The Coal Authority object to the application. The objection from The Coal Authority was passed to the

applicant's agent, but no further information was provided in support of the application. Therefore the applicant has failed to demonstrate that the siting of the chalet in that location would not place it or persons occupying it at risk from past mining related activities.

The chalet and associated development are a form of unauthorised development and a breach of planning control. Unless the chalet and associated development are removed from site and the area re-planted with woodland then enforcement action will be taken to secure the removal of it, with the period for compliance with the enforcement notice being six months.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1 The erection of a residential chalet on the application site would be new build housing development in the countryside of East Lothian for which a need to meet the requirements of the operation of an agricultural, horticultural, forestry, countryside recreation, or other business, leisure or tourism use has not been demonstrated, and which is not proposed as affordable housing development of an existing rural settlement. The proposal is therefore contrary to Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018.
- 2 The erection of a residential chalet on the application site would be new build housing development in the countryside of East Lothian for which a desirable primary use supported in principle by criterion b of Policy DC1 and with benefits that outweigh the normal presumption against new build housing in the countryside has not been demonstrated; and which is not promoted to fund the restoration of a listed building, building of recognised heritage value or significant designated feature of the built or natural environment, the retention of which is desirable. The proposal is therefore contrary to Policy DC5 of the adopted East Lothian Local Development Plan 2018.
- 3 The removal of the woodland was not required to achieve additional public benefits and is contrary to the guidance within The Scottish Government's Policy on Control of Woodland and Policy NH8 of the adopted East Lothian Local Development Plan 2018.
- 4 The site is within a Coal Authority Development High Risk Area and a Coal Mining Risk Assessment Report has not been submitted by the applicant. Consequently the applicant has failed to demonstrate that the proposed development would not place buildings or persons at risk from past mining related activities.
- 5 If approved the proposed development would set an undesirable precedent for the development of new houses in the countryside of East Lothian, the cumulative effect of which would be the suburbanisation of the countryside to the detriment of its character and amenity.

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

REPORT TO: Planning Committee
MEETING DATE: Wednesday 24 June 2020
BY: Head of Development
SUBJECT: Application for Planning Permission for Consideration

5

Application No. **20/00251/PM**

Proposal Variation of condition 2 (in respect of the footpath) of planning permission 17/01185/PM

Location **Seton Sands Holiday Village
Port Seton
Prestonpans
EH32 0QF**

Applicant Bourne Leisure Limited

Per Lichfields

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSAL

This application relates to Seton Sands Holiday Village that has an area of some 61 hectares and occupies a countryside location as defined by Policy DC1 of the adopted East Lothian Local Development Plan 2018, to the east and southeast of Port Seton.

As the area of the application site is greater than 2 hectares, 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.

The site is bounded to the north by the B1348 road and partly to the south and west by Seton House and Seton Collegiate Church and their respective grounds. The grounds of Seton House and Seton Collegiate Church are designated as the Seton House (Palace) Designed Landscape. Seton House and Seton Collegiate Church are also each listed as being of special architectural or historic interest (Category A). The building of Seton Collegiate Church and its grounds are an ancient monument scheduled under the Ancient Monuments and Archaeological Areas Act 1979. To the east the site is otherwise bounded by a public footpath, by Seton Dean Woodland, and by the residential properties of Seton Mains. The site is otherwise bounded to the west by agricultural land and to the south by the A198 public road.

The Seton Sands Holiday Village, has been operating in its countryside location as a leisure/tourism business for many years.

In November 2008 planning permission in principle (Ref: 06/00754/OUT) was granted for the expansion of the holiday village. This allowed the expanded Holiday Village to accommodate a total of 780 static caravans and 100 pitches for touring caravans, together with a 9 hole golf course with golf pavilion. The approved expansion also included upgrading and extension of the existing main amenity building, upgrading works to accesses and car parking areas and landscaping works.

In March 2008, full planning permission (Ref: 06/00753/FUL) was granted for the development of 58 stances, each of which would accommodate one static caravan. That site forms part of the land that is the subject of planning permission in principle 06/00754/OUT. Development of the 58 stances has been completed.

In March 2012 full planning permission (Ref: 12/00007/P) was granted for the erection of a golf pavilion, in a similar position to that shown for the golf pavilion on the Masterplan docketed to planning permission in principle 06/00754/OUT. The golf pavilion has since been erected.

In June 2012 application (Ref:11/00975/AMC) was granted for approval of matters specified in conditions of planning permission in principle 06/00754/OUT for the expansion of the holiday village to accommodate 195 static caravans, a 9 hole golf course and associated works (Part Retrospective).

At the time of the determination of application (Ref:11/00975/AMC) a footpath ran along the eastern boundary of the site, within the Holiday Village site, together with a stile providing a pedestrian access point over the boundary wall along the north of the site adjacent to the B1348 Road. This stile provided access from the northeast part of the Holiday Village to the grass verge on the southern side of the B1348 road. It was for this reason that condition 2 of approval of matters specified in conditions 11/00975/AMC required the provision of a footpath on the south side of the B1348 road (Links Road) to the east of the Holiday Village access junction.

Condition 2 of planning permission (Ref: 11/00975/AMC) states:

"A new 2 metres wide footpath shall be formed on the south side of the B1348 road (Links Road), from the existing Holiday Village access junction to the Double D islands on the eastern part of the B1348 road (Links Road) and from the Double D islands on the western part of the B1348 road (Links Road) to the existing footpath at Sandy Walk.

Within two months from the date of grant of this approval of matters specified in conditions, details of the proposed new footpath, including a timetable for its formation, shall be submitted to, and thereafter approved by the Planning Authority.

The new footpath shall thereafter be formed in full accordance with the details so approved.

Reason:

In the interests of road safety."

In September 2013 approval of matters specified in conditions (Ref: 13/00612/AMC) relative to planning permission in principle 06/00754/OUT was granted for alterations and extensions to the main amenity building and for other associated works. Work to the main amenity building have been undertaken.

In March 2014 full planning permission (Ref: 13/00678/P) was granted for alterations to the layout of part of the Holiday Village for the siting of 15 static caravans, for the formation of a bulk gas compound and for the erection of a bin store. Development of the 15 stances has been completed.

In October 2017 planning permission (Ref: 17/00597/P) was granted for the erection of a new golf and owners' clubhouse with associated car parking, hardstanding and landscaping, including the formation of a new putting green.

Alterations to the layout of the Holiday Village has included the siting of static caravans and stances on the north-eastern section of the site and the footpath along the eastern boundary together with the stile access are no longer in use.

In March 2018 planning permission (Ref: 17/01185/PM) was granted for the variation of condition 2 of approval of matters specified in conditions 11/00975/AMC to remove the requirement for a footpath on the south side of the B1348 road (Links Road) to the east of the Holiday Village access junction.

Amended condition 2 of planning permission (Ref: 17/01185/PM) states:

"A new 2 metre wide footpath shall be formed on the south side of the B1348 road (Links Road), from the existing Double D islands on the B1348 road (links Road) to the west of the existing Holiday Village access junction, to the existing footpath at Sandy Walk.

Within two months from the date of grant of this planning permission, details of the proposed new footpath, including a timetable for its formation, shall be submitted to, and thereafter approved by the Planning Authority.

The new footpath shall thereafter be formed in full accordance with the details so approved.

Reason:

In the interests of road safety"

Subsequent to the determination of application 17/01185/PM East Lothian Council received objections from local residents to the formation of the footpath on the south side of the B1348 as approved by permission 17/01185/PM. Therefore in February 2019 East Lothian began discussions with the applicant's agent regarding those objections. A meeting was convened at Seton Sands Holiday Village in May 2019 and was attended by Council officers, applicants, agents and local resident representatives. During the meeting Council officers advised that the implementation of a footpath on the south side of the B1348 road, as required by condition 2 of planning permission (Ref: 17/01185/PM), was no longer the preferred option and advised that the installation of a controlled crossing point was preferred.

Planning permission is therefore now sought for a variation of condition 2 (in respect of the footpath) of planning permission 17/01185/PM to require the formation of a new Puffin Crossing on the B1348 road as a replacement for the existing Double D island to provide controlled pedestrian access between pavements on the north and south sides of the B1348 (Links Road) to the west of the existing Holiday Village access junction.

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 this application. Policy T2 (General Transport Impact) of the adopted East Lothian Local Plan is relevant to the determination of this application.

REPRESENTATIONS

No public written representations have been received to the application.

COMMUNITY COUNCIL

Cockenzie and Port Seton Community Council have been consulted on the application and have made no comment

PLANNING ASSESSMENT

Since the time of the determination of planning application (Ref: 17/01185/PM) Seton Sands Holiday Village has been further developed, evolved and expanded through the implementation of a number of planning permissions.

Given the Holiday Village's location to the east of Port Seton, pedestrian movement into and out of the site is primarily to the west of the site access. An existing controlled pedestrian crossing is located to the east of the main site entrance providing access to a formal pedestrian pavement that runs to the east and west along the north side of the B1348 (Links Road).

An existing pavement is located to the west of the site access and runs for a short distance along the south side of the B1348 Road to an existing uncontrolled pedestrian crossing consisting of a Double D refuge island sited on the B1348 road, with a grass roadside verge beyond.

The proposed Puffin pedestrian crossing would replace the existing Double D island and provide controlled pedestrian access between pavements on the north and south sides of the B1348 (Links Road).

Policy T2 of the adopted East Lothian Local Development Plan 2018 requires that new development must have no significant adverse impact on: road safety; the convenience, safety and attractiveness of walking and cycling in the surrounding area; public transport operations in the surrounding area, both existing and planned, including convenience of access to these and their travel times; the capacity of the surrounding road network to deal with traffic unrelated to the proposed development; and residential amenity as a consequence of an increase in motorised traffic.

The Council's Road Services Manager raises no objection to the application, being satisfied that submitted details of the proposed Puffin pedestrian crossing meets Council standards and is an appropriate alternative to the previously conditioned footway in providing Seton Sands residents who wish to walk or cycle towards Port Seton and vice versa with a suitable route. He further advises that due to seasonal restrictions on works being undertaken on public roads a timescale for the provision of the controlled Puffin pedestrian crossing should be submitted for approval within a period of one month from the date of any grant of planning permission in order to allow control of works to secure such provision. This can reasonably and competently be secured through an amendment of condition 2 of planning permission (Ref: 17/01185/PM).

Subject to the aforementioned planning control, the proposed variation of condition 2 (in respect of the footpath) of planning permission (Ref: 17/01185/PM) is consistent with policy T2 of the adopted East Lothian Local Development Plan 2018.

Annex I of Planning Series Circular 3/2013 (Development Management Procedures) provides guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". However in this instance there are no conditions from planning permission (Ref 17/01185/PM) or from any other previous consents that would apply to this planning permission to vary condition 2 of planning permission 17/01185/PM.

RECOMMENDATION

That planning permission be granted unconditionally:

- 1 A new controlled Puffin pedestrian crossing shall be formed on the south side of the B1348 road (Links Road) as a replacement for the Double D islands on the B1348 road (links Road) to the west of the existing Holiday Village access junction, to the existing footpath at Sandy Walk. The new controlled Puffin pedestrian crossing will be formed in accordance with the details shown on approved drawing ref 10140 Rev C docketed to this planning permission.

Within one month from the date of grant of this planning permission a timetable for the formation of the controlled Puffin pedestrian crossing shall be submitted to, and thereafter approved by the Planning Authority.

The new crossing shall thereafter be formed in accordance with the timescale and the detail so approved unless otherwise approved in writing by the planning authority.

Reason:

In the interests of road safety.

REPORT TO: Planning Committee
MEETING DATE: Wednesday 24 June 2020
BY: Head of Development
SUBJECT: Application for Planning Permission for Consideration

6

Application No. **19/01068/AMM**

Proposal Approval of matters specified in conditions of planning permission in principle 14/00768/PPM - Erection of 32 houses, 28 flats and associated works

Location **Blindwells
Tranent
East Lothian**

Applicant Hargreaves Surface Mining Ltd & Cruden Homes East

Per EMA Architecture + Design

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSAL

Although this application is for the approval of matters specified in conditions of planning permission in principle 14/00768/PPM it has to be determined as a major development type application because the number of residential units detailed is greater than 49. Accordingly, the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

A Development Framework for the allocated land of Blindwells was approved by the Council on the 08 June 2010. It sets out the role of the new settlement in the settlement hierarchy and its characteristics in terms of service provision, the consequent scale and range of development/ land uses expected, and how the Council requires it to be developed in terms of infrastructure and design requirements.

Planning permission in principle 14/00768/PPM was granted in May 2018 for the creation of a new settlement that could comprise residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works, all on a site of 128 hectares on land at Blindwells which is located in close proximity to the settlements of Prestonpans, Tranent, Cockenzie and Port Seton.

In October 2019 planning permission (Ref: 19/00242/AMC) was granted for Approval of matters specified in conditions 1d and 1h (details of road infrastructure for Phase 1 Plot 1) of

planning permission in principle 14/00768/PPM - For remediation of site and creation of new settlement comprising residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works.

In December 2019 planning permission (Ref: 18/00725/AMC) was granted for approval of matters specified in Conditions 1d and 1h (details of road infrastructure for Phase 1 Plot 2) of planning permission in principle 14/00768/PPM - For remediation of site and creation of new settlement comprising residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works.

In May 2020 planning permission (Ref: 19/00620/AMM) was granted for approval of matters specified in conditions 1d, 1h, 1l and 1n (details of road, drainage and landscape infrastructure for Phase 1) of planning permission in principle 14/00768/PPM - For remediation of site and creation of new settlement comprising residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works.

In May 2020 planning permission (Ref: 19/00900/AMM) was granted for approval of matters specified in conditions of planning permission in principle 14/00768/PPM for the erection of 146 houses and associated works.

A condition of planning permission in principle 14/00768/PPM requires that the phasing of the development of the site should be carried out in strict accordance with the phasing plans that are in the Masterplan Document docketed to the planning permission in principle, unless otherwise approved in writing in advance by the Planning Authority. The approved phasing plans of the docketed Masterplan Document split the housing development of the wider Blindwells site of 1600 houses into 11 Phases of development and sets out the number of housing completions for each phase of development in each audit year.

The erection of 146 houses and associated works approved within planning permission (Ref: 19/00900/AMM) constitutes Phase 2 of development of the wider Blindwells site.

Approval of matters is now sought for the erection of 32 houses, 28 flats and for associated works as an approval of matters specified in conditions of planning permission in principle 14/00768/PPM. The application site constitutes phase 1 of the phasing plan approved within planning permission in principle ref 14/00768/PPM.

The site is 1.28 hectares in size and located to the northwest of the wider Blindwells site. The site is in close proximity to the settlements of Prestonpans, Tranent, Cockenzie and Port Seton and is predominantly bounded to the south by land identified as Area 2 of the Blindwells site and the A1 trunk road beyond, to the west by the A198 public road, to the east by land the subject of the wider Blindwells site and to the north by the east coast main railway line.

The application site is within the inventory boundary of the Battle of Prestonpans, a battlefield included within the Inventory of Historic Battlefields.

A Scheduled Ancient Monument, known as the Seton West Mains Enclosures 500M SW Of, is located some 400 meters to the northwest of the application site.

In March 2020 a Section 75A was concluded to modify the planning obligations associated with the planning permission in principle for the Blindwells development of 1,600 homes (Ref:14/00768/PPM).

The section 75A secured mechanisms for the provision within the residential development of

1600 residential units of 30% affordable housing (i.e. 480 units of the proposed 1600 units). Additionally, the masterplan docketed to planning permission (Ref: 14/00768/PPM) indicates the parts of the wider Blindwells development that will provide for affordable housing.

Of the 60 residential units proposed within the application 32 would be houses and 28 would be flats. The 60 units are all proposed as affordable housing. In this regard the proposal is consistent with the indicative masterplan docketed to planning permission in principle (Ref: 14/00768/PPM) and with policy HOU3 (Affordable Housing Quota) of the adopted East Lothian Local Development Plan 2018. A condition can reasonably be attached to any grant of planning permission to ensure the development is operated as affordable housing.

Of the 32 houses, all would be terraced. 17 of the houses would be 2-bedroom, 11 would have 3 bedrooms and 4 would have 4 bedrooms. The proposed 28 flats would be provided within 7 flatted blocks located throughout the site. Each block would contain 4 residential units composed of twelve 1-bedroom and sixteen 2-bedroom flats. 3 of the flatted blocks would be one-and-a-half stories in height and 4 would be two stories in height.

The main vehicular, pedestrian and cycle access to the application site would be taken from a point on an approved northern distributor road running from a northern position on the A198 Road to the west to provide access to the wider Blindwells site.

The submitted details also include for internal roads, parking courts, boundary treatments, landscaping and areas of open space.

This application is supported by a Design and Access Statement, a Landscape Design Statement and an updated Drainage Strategy.

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 BW1 (Blindwells New Settlement) and Policies HOU1 (Established Housing Land), HOU3 (Affordable Housing Quota), DP1 (Landscape Character), DP2 (Design), DP3 (Housing Density), DP9 (Development Briefs), CH5 (Battlefields), T1 (Development Location and Accessibility), T2 (General Transport Impact), W3 (Waste Separation and Collection), OS3 (Minimum Open Space Standards for New General Needs Housing), NH10 (Sustainable Drainage Systems) and NH11 (Flood Risk) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of this application.

Also material to the determination of this application is Scottish Government Advice given in Planning Advice Note 67: Housing Quality. Planning Advice Note 67 explains how Designing Places should be applied to new housing. In PAN 67 it is stated that the planning process has an essential role to play in ensuring that: (i) the design of new housing reflects a full understanding of its context - in terms of both its physical location and market conditions, (ii) the design of new housing reinforces local and Scottish identity, and (iii) new housing is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful attention to detailed aspects of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing should take account of the wider context and be

integrated into its wider neighbourhood. The quality of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not only to setting and layout and its setting, but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

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

Also material to the determination of the application is the approved masterplan for the site as approved by the grant of planning permission in principle 14/00768/PPM. The masterplan sets out the land uses expected for the allocated site and how the Council requires the site to be developed.

Also material to the determination of the application is Supplementary Planning Guidance (SPG) on 'Design Standards for New Housing Areas' adopted by the Council in May 2020. The SPG expands on policies that are set out in the East Lothian Local Development Plan 2018.

REPRESENTATIONS

No public objection to this application has been received

COMMUNITY COUNCIL

Cockenzie and Port Seton Community Council as a consultee to the application have made no comment on the application

PLANNING ASSESSMENT

By the grant of planning permission in principle 14/00768/PPM approval has been given for the principle of the erection of up to 1600 houses on the wider Blindwells site following technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. There can therefore be no objection in principle to the erection of the 60 residential units now proposed on this particular part of the site.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development, the means of access to the site and the means of any enclosure of the boundaries of the site. In this regard the detailed proposals have to be considered against relevant development plan policy, and the Illustrative Masterplan and conditions attached to planning permission in principle 14/00768/PPM.

The proposed houses, flatted blocks and associated areas of ground, in their proposed groupings, orientations, and layout would be consistent with the principles of the Scottish Government Policy Statement entitled "Designing Streets". The proposed layout of roads, pathways and parking spaces would also generally be consistent with those principles.

The range of house types and flatted blocks proposed would give a variation of architectural form to the development, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development.

The architecture of the proposed houses and flatted blocks is of a relatively traditional

pitched roof form. Submitted details propose render as the predominant wall finish with some use of reconstituted stone as a contrasting wall finish.

A condition can be imposed on any grant of planning permission to require the submission of a scheme of final finishes with a palette of colour of materials for the houses and flatted buildings, allowing for some use of reconstituted stone, providing it is limited to a distinctively complete feature of the houses and flatted buildings and respectful of their design integrity. In all of this, subject to the imposition of the above condition, the proposal would be an appropriate residential development of the site.

The proposed layout is broadly consistent with the layout shown in the Illustrative Masterplan docketed to planning permission in principle 14/00768/PPM. The proposed houses and flatted blocks, due to their positioning on the application site and by virtue of their height, size and scale, and architectural design would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. This would ensure a visually attractive and cohesive development, with the proposed houses and flatted blocks visible, but not appearing incongruous or intrusive in their surroundings. The other components of the proposed development would not be harmful to the character and appearance of the area.

The proposed housing development would provide an attractive residential environment for future residents of the proposed houses. The houses and flatted blocks are largely shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing. The occupants of each of the new residential units would be afforded an appropriate level of privacy and residential amenity. In the interests of safeguarding the amenity of the future occupiers of the proposed flats it should be made a condition of the grant of planning permission for the proposed development that bin storage facilities for the proposed flats be formed prior to the occupation of those residential units.

The proposed development would be consistent with Policy DP3 of the adopted East Lothian Local Development Plan 2018, as the proposed development would achieve a minimum average density of at least 30 dwellings per hectare (net).

The application site is capable of accommodating all of the proposed development including vehicular and pedestrian access and amenity space without being an overdevelopment of it. The proposed positioning of the 60 residential units and other components of the development would not prejudice the form of development of the remainder of the 1600 houses approved in principle by the grant of planning permission in principle 14/00768/PPM.

The Council's Landscape Officer has been consulted and advises that a submitted scheme of landscaping generally accords with the 'Landscape Design Statement' which is docketed to planning permission in principle 14/00768/PPM and is acceptable. Subject to that landscaping plan being implemented, which can be made a condition of any grant of planning permission, he raises no objection to the planning application.

The Environmental Health Manager has been consulted and advises that a noise assessment carried out for the wider Blindwells site the subject of planning permission (Ref: 14/00768/PPM) concluded that it was likely that Road Traffic noise would impact upon properties located along the southern boundary, southwest corner and western boundary of that site. As the site the subject of this application is located on the western edge of the larger site, and in close proximity to the A198 Road, details of the precise mitigation measures required to abate road traffic noise impacts will be required.

Accordingly, prior to commencement of any development subject to this application the **Environmental Protection Manager** advises that a further noise impact assessment shall

be submitted to assess impacts of road traffic noise upon occupiers of proposed housing. The Noise Report shall specify details of any mitigation measures that may be required to achieve the following design criteria:

1. Daytime garden noise levels of 50-55dBAeq,t specified in paragraph 7.7.3.2 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings" The upper limit of 55dB must be achievable.
2. Daytime and night-time internal noise levels specified in Table 4 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings". The daytime level of 35dB and night time level of 30dB in should be achievable.

The Environmental Health Manager recommends that the required noise report to demonstrate noise mitigation measures, together with a timetable for their implementation, should be submitted to and approved by the Planning Authority. This can be secured by a condition attached to any grant of planning permission. Subject to the implementation of this condition, future residents would benefit from a satisfactory level of privacy and residential amenity.

The masterplan docketed to planning permission in principle 14/00768/PPM indicates how areas of formal and informal open space could be located throughout the allocated site.

The site that is the subject of this approval of matters application includes small areas of land shown on the docketed masterplan as being the location for areas of open space. However this site is not shown on the masterplan to have any areas for play area provision within it. The masterplan does show that there are to be more substantial areas of open space adjacent to the east side of the site that would include a local park.

Consequently, although the proposed development does not include the provision of formal play area provision, this is consistent with the docketed masterplan. On this consideration the proposed development is consistent with Policies OS3 and OS4 of the adopted East Lothian Local Development Plan 2018 and with the indicative masterplan docketed to planning permission in principle 14/00768/PPM.

On all of these foregoing findings on matters of design, density, layout, landscaping and amenity the details submitted for approval are consistent with Policies DP1, DP2, DP3 and DP4 of the adopted East Lothian Local Development Plan 2018, the Council's approved development framework for Blindwells, the Council's Supplementary Planning Guidance (SPG) on 'Design Standards for New Housing Areas' and the Scottish Government's Designing Streets.

The Council's Waste Services have been consulted on the application and raise no objection to the application.

Scottish Water has no objection to the application.

The Coal Authority has been consulted and has no objection to the application on the basis that Ground Remediation conditions 18, 19, 20 and 21 of planning permission (Ref: 14/00768/PPM which seek to address coal mining legacy related issues can be addressed.

Parking for the proposed houses would be primarily located to the side and rear of primary frontages. On street parking would be interspersed with areas of landscaping. Road widths would be narrowed with on-street visitor parking and traffic calming measures, and the back lanes/courts would be short in length with widths narrowing. All of this would encourage lower vehicle speeds on primary streets and in back lanes/courts. In all of this the proposed

housing development would provide an attractive street setting which would not be dominated by parking.

The Council's Road Services are generally satisfied with the detailed proposals for site access and parking, subject to the following requirements:

- i) All roads and paths shall conform to ELC Standards for Development Roads.
- ii) All prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres.
- iii) Prior to the commencement of development details of all electric vehicle charging points and required infrastructure, along with a timetable for provision, shall be submitted to and approved in writing by the Planning Authority.
- iv) Prior to commencement of development, a Factoring Plan should be submitted clearly indicating the different responsibilities for long term maintenance including: private and shared private areas, factored areas, and prospectively adoptable roads.
- v) Prior to commencement of development, a Quality Audit to independently assess walking, cycling, access and road safety aspects within and around the development should be submitted and approved by the planning authority. This will be reviewed after construction is substantially complete and the developer required to make good any issues.
- vi) A Travel Information Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority prior to construction commencing. The Travel Information Pack will include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents.
- vii) A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including parking, routes to/from site and delivery times) and shall include hours of construction work. Temporary measures shall be put in place to control surface water drainage during the construction of the SuDS.
- viii) Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

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

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

Transport Scotland have been consulted on this application and raise no objection.

The Council's Biodiversity Officer offers no comment on the application.

Historic Environment Scotland raise no objection to the principles of the proposed

development.

The Council's Contaminated Land Officer was consulted and, taking into account the findings of previous site-wide investigation reports, advises that there are potential pollutant linkages that may have an impact on the proposed development of the site, related to both chemical contamination of the backfill material as well as elevated ground gas associated with the former mining works and areas of made ground. He further advises that it was also indicated in these reports that more site specific investigations would need to be carried out once the design layout for the development had been decided.

In light of the above and given the nature of the proposed development, further information will be required to determine the ground conditions and potential contamination issues impacting on the proposed development site.

The Council's Contaminated Land Officer therefore advises that prior to any site development works a suitable Geo-Environmental Assessment be carried out, with the Report(s) being made available to the Planning Authority for approval. It should include details of the following:

- * A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment);
- * A Ground Investigation comprising a survey of the extent, scale and nature of contamination, and an updated conceptual model of the site. It is required if the Desk Study has indicated that the site is potentially contaminated and the degree and nature of the contamination warrants further investigation;
- * An appraisal of the remediation methods available and proposal of the preferred option(s). Should a requirement for remedial works be identified, then prior to the site being occupied a detailed Remediation Statement will be required to be produced that shows how the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors.

Following completion of the measures identified in the approved Remediation Statement, a Verification Report that demonstrates the effectiveness of the remediation carried out should be submitted to the Planning Authority for approval prior to commencement of the new use of the land. Should unexpected contamination that was not previously identified be found at any time when carrying out the approved development, work on site shall cease and the issue reported to the Planning Authority.

These recommendations can reasonably be secured by the imposition of a condition on any planning permission granted for the proposed development. Subject to this planning control the contaminated land officer raises no objection to the proposed development

Further to the submission of updated below-ground Drainage Layout drawings providing details of permeable paving areas and silt traps, the Council's Team Manager for Structures, Flooding & Street Lighting has no objection to the application, being satisfied that there would be no unacceptable flood risk.

The Scottish Environment Protection Agency (SEPA) has been consulted and raise no objection to the proposals, being satisfied that the updated Drainage Strategy is acceptable in principle.

RECOMMENDATION

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

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

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

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

Reason:

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

- 2 Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street. Notwithstanding that shown on the docketed site plan the houses denoted with an asterisk shall have dual frontages. Otherwise 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.

Reason:

In the interests of safeguarding the character and appearance of the development.

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

Details of the form and appearance of all boundary treatments, including the 1.8m high fences within the rear gardens of the houses and flatted blocks, shall be submitted to and approved by the Planning Authority prior to the occupation of the first house.

A timetable for the provision of those boundary treatments shall be submitted to and approved in advance by the Planning Authority and shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 4 Landscaping of the site shall be carried out in accordance with that shown on drawing numbers 374.17.01b, 374.17.02b and 374.17.03b docketed to this planning permission. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation or completion of any part of the development hereby approved, whichever is the sooner.

Any trees or plants which within a period of 10 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, 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 amenity.

- 5 The details to be submitted pursuant to condition 1 above shall include full details of all noise mitigation measures. The mitigation measures shall include, but may not be limited to, final heights and locations of any acoustic bunds and/ or barriers, upgraded glazing/ ventilation specification within specific properties and possible re-orientation of residential properties. These mitigation measures shall be such that the following design criteria shall be met:

1. Daytime garden noise levels should not exceed 55 dB (A);
2. Daytime internal noise levels should not exceed 35 dB (A) and night-time internal noise levels should

not exceed 30 dB (A); and

3. The Rating Level, LArTr, of noise emanating from any proposed commercial unit (when measured 3.5m from the façade of any existing or proposed residential property shall be no more than 5 dB (A) above the background noise level, LA90T.

The details to be submitted shall also include a further noise report to demonstrate the noise mitigation measures required to ensure compliance with this design criteria, together with 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.

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

i) All roads and paths shall conform to ELC Standards for Development Roads.

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

iii) Prior to the commencement of development details of all electric vehicle charging points and required infrastructure, along with a timetable for provision, shall be submitted to and approved in writing by the Planning Authority.

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

v) Prior to commencement of development, a Quality Audit to independently assess walking, cycling, access and road safety aspects within and around the development should be submitted and approved by the planning authority. This will be reviewed after construction is substantially complete and the developer required to make good any issues.

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

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

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

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

Reason:

In the interests of road and pedestrian safety.

7 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

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

Reason:

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

- 9 Prior to the commencement of development details of the bin storage facilities for the flatted properties hereby approved shall be submitted to and approved in advance by the Planning Authority. Prior to the occupation of any of the flats the bin storage facilities shall have been formed in accordance with the approved details and made available for use. Thereafter, the storage facilities shall be retained in use solely as bin storage areas.

Reason:

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

- 10 Prior to the commencement of development confirmation from Scottish Water shall be provided that demonstrates that there is an available connection to the public sewer and that Scottish Water will accept waste from this development. If Scottish Water cannot accept foul drainage from this site, proposals for alternative arrangements should be provided, prior to the commencement of development and SEPA should be re-consulted.

Reason:

In the interests of ensuring that foul drainage from the site can be accommodated.

- 11 Unless otherwise agreed by the Planning Authority, no house shall be occupied unless and until the amended Phase 1 Drainage Strategy (Waterman) June 2019 has been implemented to the satisfaction of the Planning Authority.

Prior to the commencement of development a Surface Water Management Plan for the housing site hereby approved, with details of all SuDS features/structures to be constructed on the site shall be submitted to and approved by the Planning Authority. This Surface Water Management Plan must demonstrate how onsite SUDs features will integrate with the Blindwells Phase 1 Drainage Strategy (Waterman) June 2019 (as amended on 6 February 2020) and should include technical approval of the Surface Water Management Plan by Scottish Water. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

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

- 12 Prior to the commencement of development, to ensure that the site is clear of contamination, a Geo-Environmental Assessment shall be carried out and the following information shall be submitted to and approved by the Planning Authority:

- o Phase I - A preliminary investigation incorporating a desk study, site reconnaissance, development of a conceptual model and an initial risk assessment.
- o Phase II - Incorporating a site survey (ground investigation and sample analysis) and risk evaluation. It is required if the Phase I investigation has indicated that the site is potentially contaminated and the degree and nature of the contamination warrants further investigation.
- o Phase III - Where risks are identified, a Remediation Strategy should be produced detailing and quantifying any works which must be undertaken in order to reduce the risks to acceptable levels.

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

The presence of any previously unsuspected or unforeseen contamination that becomes evident during

the development of the site shall be brought to the attention of the Planning Authority. At this stage, further investigations may have to be carried out to determine if any additional remedial measures are required.

Reason:

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

- 13 Prior to the commencement of development a detailed condition survey of the construction access route from the Bankton 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 each anniversary of the commencement of development. Any damage identified as a result of construction activities shall be repaired or resurfaced by the developer in compliance with the Council's specifications and requirements at no cost to the Council as Roads Authority.

Reason:

In the interests of road safety.

- 14 No development shall be commenced on site unless and until written evidence that a contract has been entered into for the provision as affordable housing of all of the 60 residential units hereby approved has been submitted to and agreed by the Planning Authority.

Reason:

In order to ensure the development is operated as affordable housing and is therefore compliant with Policy HOU3 of the adopted East Lothian Local Development Plan 2018.

- 15 Prior to the commencement of development details shall be submitted to and approved by the Planning Authority of overlying subsoil/topsoil to be provided to the front and back gardens of the houses hereby approved on a plot by plot basis and on all soft landscaping areas to ensure the provision of a layer of subsoil/topsoil of at least 600 mm in thickness. Thereafter the subsoil/topsoil shall be provided in accordance with the details so approved unless otherwise agreed in writing by the Planning Authority.

Confirmatory testing for both subsoil and topsoil materials is to be included within the Remediation Strategies being produced for the development site, with validation of these results being included within subsequent Verification Reports.

Reason

To ensure the provision of a suitable growing medium for garden areas and other areas of soft landscaping.

REPORT TO: Planning Committee
MEETING DATE: Wednesday 24 June 2020
BY: Head of Development
SUBJECT: Application for Planning Permission for Consideration

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Note - this application was called off the Scheme of Delegation List by Councillor McLennan for the following reasons: I believe the proposal would improve the appearance and amenity of the area, along with economic benefit and also the lack of objections. There is also a previous authorised building on site with an established use and existing planning consent/building control for the proposed development.

Application No. **20/00169/P**
Proposal Erection of 1 house, triple garage and associated works
Location **Site Of The Former Old School Master's House
Whittingehame
East Lothian**
Applicant Mr David McMillan
Per Rick Finc Associates

RECOMMENDATION Application Refused

REPORT OF HANDLING

PROPOSAL

The application site is located within the Whittingehame Estate some 1.4 km to the southwest of the village of Stenton. It is within the East Lothian countryside as defined by Policy DC1 of the adopted East Lothian Local Development Plan 2018. It is within the Whittingehame Designed Landscape.

Some 150m to the west of the site on the opposite side of the access road is Whittingehame House, which is listed as being of special architectural or historic interest (Category A). Some 200m to the northwest of the application site is a group of houses formed through the conversion of a group of former stables and associated buildings.

The site is bounded to the north, east, south and west by agricultural land. On the site there currently exists the remains of a house, a static caravan and another temporary cabin building. The site is accessed by an access track leading off the main access road to Whittingehame House from the B370, and which is located to the south of the application site.

In May 1992 (Ref: 92/00209/HIS_P) planning permission was granted for an extension to a dwelling house that had previously existed on the application site.

In May 1998 planning permission (Ref: 97/01162/HIS_P) was sought for the erection of domestic stable block and formation of private road on the application site. A report on the application was placed before the Planning Committee meeting of the 7 May 1998 and permission was granted. There is no evidence that planning permission 97/01162/HIS_P was ever implemented or that this stable block was ever built.

In October 2001 (Ref: 01/00901/FUL) planning permission was granted for an extension to the dwelling house that had previously existed on the application site.

In June 2009 (Ref: 09/00345/FUL) planning permission was granted for extensions to the house that had previously existed on the application site and for the erection of a triple garage, fencing and gates on the application site. Works to implement planning permission 09/00345/FUL commenced sometime in 2010. In July 2010 the Planning Enforcement Service received a complaint ref: 10/00119/COM that alleged that the works taking place on site were not in accordance with those approved by planning permission 09/00345/FUL. As a result of this complaint an enforcement investigation was instigated where it was found that the house that had been the subject of planning permission 09/00345/FUL had largely collapsed and all that remained of it were 3 walls and the roof of a small part of it. As a large part of that house was no longer in situ, it was no longer possible to implement planning permission 09/00345/FUL without rebuilding the house. This rebuilding of the house would be contrary to Policy DC1 of the adopted East Lothian Local Plan 2008. Therefore the applicant was advised to cease works pending the determination of a new planning application. No such planning application was ever submitted.

Through this current application planning permission is now sought for the erection of a two storey house with a pitched roof on the site and for the erection of a detached triple garage and associated works within the application site. The application site still be accessed from the same access track as presently exists.

To facilitate the proposed development on site the remains of the house, the static caravan and temporary cabin building will be removed from site.

A supporting statement submitted with the application informs that the site is currently unoccupied being the site of a previously demolished house. Only one part of that former house remains on site. However, when Whittingehame House became the former Holt School for Boys in 1963 there had been 2 semi-detached houses on the site which were used by the Schoolmasters house and the groundskeeper. The school closed in 1980 and around that time the two semi-detached houses were combined into one house. The extensions described above (ref: 92/00209/HIS_and 01/00901/FUL) were to that house.

In 2009 planning permission 09/00345/FUL was granted for the two storey extension and for the erection of the triple garage. This proposal was subject to the submission of an engineer structural report which confirmed that house could withstand such an extension being attached to it without substantial demolitions.

However during the construction of the extension sometime in 2010 the supporting statement informs that during severe weather conditions the older part of the house collapsed and the fabric removed from site. Following this collapse new foundations were set with the intention of rebuilding the house and the extensions as approved by planning permission 09/00345/FUL. However, East Lothian Council requested that the works stop as the works were no longer being carried out in accordance with planning permission 09/00345/FUL. The Council requested that a new planning application be submitted to erect a new dwelling. No planning application was submitted.

The applicant now proposes to build a house and triple garage on the site. The proposed

new house would be identical to the house as it was to be extended by the grant of planning permission 09/00345/FUL and thus would be a two storey house with a pitched roof. The applicant asserts that the principle of a dwelling house on the site is established and the extension to a dwellinghouse was consented and commenced and therefore has been implemented.

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 (ELLDP).

There are no relevant policies of the approved South East Scotland Strategic Development Plan. Relevant to the determination of the application are policies DC1 (Rural Diversification), DC3 (Replacement Dwelling in the Countryside), DC4 (New Build Housing in the Countryside), DC5 (Housing as Enabling Development), CH1 (Listed Buildings), CH6 (Garden and Designed Landscapes), DP2 (Design), T1 (Development Location and Accessibility), and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Also material to the determination of the application is Scottish Government guidance given in Scottish Planning Policy: June 2014.

The application site is in a countryside location within East Lothian and is part of a much larger area that is characterised by a low density dispersed built form within an agricultural landscape. It is not identified in the adopted East Lothian Local Development Plan 2018 as being within a settlement and the Local Development Plan does not allocate the land of the site for housing development.

Consequently, the principle of the erection of one house on the application site must be assessed against national, strategic and local planning policy relating to the control of new housing development in the countryside.

In Paragraph 76 of Scottish Planning Policy: June 2014 it is stated that Local Development Plans should make provision for most new urban development to take place within or in planned extension to existing settlements. Paragraph 81 states that in accessible or pressured rural areas, where there is a danger of unsustainable growth in long distance car based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate.

In Paragraph 83 it is stated that in remote rural areas, where new development can often help to sustain fragile communities, sustainable development that would provide employment and that would support and sustain fragile and dispersed communities through provision of appropriate development should be supported.

It is stated in paragraphs 5.1 and 5.2 of the adopted East Lothian Local Development Plan 2018 that while the LDP's spatial strategy guides the majority of new development to existing settlements in the interests of promoting sustainable travel patterns, it also seeks to support the diversification of the rural economy and the ongoing sustainability of the countryside and coast through support in principle for agriculture, horticulture, forestry and countryside recreation, as well as other forms of appropriate business, leisure and tourism developments. New rural development should be introduced sensitively to avoid harming the characteristics that attract people to live, work and visit East Lothian's countryside and

coast.

Paragraph 5.10 of the adopted East Lothian Local Development Plan 2018 states that the LDP has a general presumption against new housing in the countryside but exceptionally a new house may be justified on the basis of an operational requirement of a rural business. In such circumstances, appropriate evidence clearly demonstrating the need for a new dwelling on the particular site in association with the business will be required. Such evidence should include that no suitable existing dwelling has been recently made unavailable for that purpose and that there is no existing building that could be converted to a house.

Policy DC1 sets out specific criteria for new development in the countryside, stating that there will be support in principle for new development where it is for agriculture, horticulture, forestry or countryside recreation; or other businesses that have an operational requirement for a countryside location, including tourism and leisure uses.

Policy DC3 sets out specific criteria where replacement dwellings in the countryside will be supported. This includes:

- (i) be a like for like replacement of a dwelling recently rendered uninhabitable by unforeseen circumstances, such as a demonstrable and accidental fire, provided there is compelling evidence that the loss of the original habitable dwelling was recent and that it benefited from lawful use as a dwelling immediately prior to the loss;
- (ii) replace an existing dwelling with lawful use rights as such (not the plot of a previous, now demolished house) that the Council accepts that due to the construction of the building it is incapable of retention for habitation and that all reasonable efforts have been made to maintain the building.

Applicants must submit credible evidence at the time of the planning application to demonstrate compliance with this policy as relevant. Any replacement dwelling must be similar in size, scale and massing to the original and would be of an appropriate character for its location.

Policy DC4 sets out specific criteria for the erection of new build housing in the countryside, and allows for new build housing development in the countryside where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use. Policy DC4 also allows for other small scale housing proposals that form a logical addition to an existing small scale rural settlement where they are promoted for affordable housing and evidence of need is provided and the registered affordable housing provider will ensure that the dwelling(s) will remain affordable for the longer term.

Policy DC5 sets out specific criteria for the exceptional circumstances where the erection of housing as enabling development in the countryside may be supported. Any such new housing development in the countryside should: (a) enable a desirable primary use supported in principle by criterion by Policy DC1 and the benefits of the primary use outweighs the normal presumption against new build housing in the countryside; or (b) fund the restoration of a listed building or other buildings of recognised heritage value, or other significant designated feature of the built or natural environment, the retention of which is desirable, and should satisfy the terms of Policies CH1 and where relevant CH6, and can be clearly demonstrated to be the only means of preventing the loss of the asset and secure its long-term future; and (c) the proposal satisfies the terms of Policy NH1. In all cases, the benefits of the proposed development must outweigh the normal presumption against new build housing development in the countryside.

REPRESENTATIONS

Five letters of representation have been made in relation to the application. One letter supports the application on the basis that the existing structure on site is an eye sore and new development would be welcomed. Three letters of objection have been received in relation to the application. The main grounds of objection are;

- o The incorrect address and omission of postcode were evident on the application form,
- o Uncertainty regarding neighbour notification and notification in local papers having actually been carried out;
- o Construction traffic would have a harmful impact on the existing access road;
- o Concerns regarding management of development if it were to go ahead. Works related to previous application 09/00345/P were not carried out however the house became damaged to the extent that it collapsed;
- o Concerns over drainage and water supply;
- o Incorrect information submitted through the planning statement in relation to foundations being built following 2009 application as no works were carried out;
- o Originally build became uninhabitable in 2009/2010 and policy DC3 states that circumstances have to be recent and 10 years cannot be considered recent;
- o Development will affect the setting and would not be in keeping with Whittingehame House, a Category A Listed Building;
- o History of disturbing neighbour onsite worries neighbours; and
- o Development would have a detrimental impact on already poor internet service in the area.

One letter of representation was received neither supporting nor objecting to the application with the main points covered above.

All relevant notification, neighbour and otherwise, were carried out as per procedure in relation to the application. Thus the Council as Planning Authority has carried out their statutory obligation in respect of neighbour notification, advertising of applications and land ownership.

The address of the application which is within a field is not unacceptable in the submission of a planning application. This is neither unusual or suspicious.

The matter of impact on internet service is not a material planning consideration in the determination of a planning application.

The matter of nuisance neighbours and drainage and water supply are matters controlled by legislation other than planning legislation. Therefore they are not material planning considerations relevant to the determination of this planning application.

COMMUNITY COUNCIL

No comment.

PLANNING ASSESSMENT

The Council's Environmental Protection Officer has no adverse comment to make on the application, being satisfied that the development would not have an adverse impact on any neighbouring land uses.

The Council's Road Services has no adverse comment to make on the application, being satisfied that the development would not have an adverse impact on any road safety issues.

The Councils Policy and Project's Landscape Officer notes that no detail of the existing

tree's on or adjacent to the site have been submitted. Should planning permission be granted a landscaping scheme should be submitted to the Planning Authority prior to the commencement of any development. This can be controlled by condition.

The proposed house to be erected on the site is to be identical to that approved planning permission through previous planning application 09/00345/FUL. The proposed house would be centrally positioned within the site. It would be two storey in height with a pitched roof. The proposed house would have a ridge height of some 6.5 metres and would measure, at most some 18 metres by 20 metres. A terraced area measuring some 0.4 metres high from ground level would be formed projecting from the western elevation of the house. The proposed house would be finished in render with the roof clad with concrete tiles and the windows and doors would be timber framed. All elevations would have glazed openings at both the ground and first floor levels.

The proposed house would comprise of an entrance hall, study, sitting room, drawing room, dining room, open kitchen and living area and bathroom at ground floor level and four bedrooms with en-suites provided at the first floor level.

A detached triple garage is proposed to be located to the east of the application site. The garage would measure, at most some 12 metres by 8 metres, it would have a pitched roof with a ridge height of some 4.1 metres. It would contain three separate garage door openings, partially glazed, on the front (west) elevation and a glazed opening on each the side (north and south) elevation.

It is proposed that a new vehicular access some 3.8 metres wide be formed on the southern boundary of the application site, which can be accessed off a track off the public road B370, to serve a new driveway which would provide vehicular access to a parking, turning area and detached triple garage within the site. The driveway would be formed of stone paving. A metal fence and associated gate measuring some 3.8 metres wide and some 1.5 metres high would be erected along the southern boundary.

The proposed house would be positioned such that it would not harmfully impose itself on the setting of the listed building, Whittingehame House. It would not harm the setting of that listed building.

The proposed house, by virtue of its scale, design and materials would not be out of keeping with the area and given its position and location would not result in harmful overlooking, loss of privacy or loss of sunlight and daylight of any neighbouring properties or land uses and such that the occupants of the proposed house would also be provided with sufficient daylight, sunlight, privacy and amenity. On these matter, the proposed development is consistent with Policy DP2 of the adopted East Lothian Local Development Plan 2018.

On these principles of development, the proposal to build a house on the application site would not conflict with the aims and objectives of Policy DP2 of the adopted East Lothian Local Development Plan 2018.

Due to its distance from Whittingehame House and that there are intervening trees, the erection of a house, triple garage and associated works on the application site would not harm the setting of the listed building of Whittingehame House and would not be contrary to Policy CH1 of the adopted East Lothian Local Development Plan 2018.

Due to its size, scale and positioning and as it would facilitate the removal of the remains of the existing house that had previously existed on the site the erection of a house, triple garage and associated works on the application site would not be harmful to the Whittingehame House Designed Landscape and would not be contrary to Policy CH6 of the

adopted East Lothian Local Development Plan.

However, notwithstanding that the proposed house, triple garage and associated works is in terms of its design, impact on privacy and amenity and impacts on the historic environment are acceptable it remains to be established whether there is sufficient justification to support the principle of erecting a house on the site and whether such a proposal is consistent with other relevant policy provisions of the development plan in the form of Policies DC1, DC3, DC4 and DC5 of the adopted East Lothian Local Development Plan 2018 and Scottish Government policy guidance regarding the control of new housing development in the countryside given in Scottish Planning Policy: June 2014, or whether there are any other material planning considerations that would outweigh the policies of the Development Plan that would justify the erection of the house.

The application site is within an area defined as being within the countryside by the adopted East Lothian Local Development Plan. Although Whittingehame House is located close by and there are other houses located a short distance from the site those buildings are not new build development but are existing houses which are long established in their countryside location and which are part of the character and appearance of the area. Moreover, whilst the application site may previously have had a house located on it, the majority of that building has been removed and what is left is not habitable, can no longer be occupied and therefore can no longer be regarded as a house with lawful use rights. Rather what would be built is a new house which would not be an addition to a settlement or an addition adjoining the edge of a settlement but instead would constitute new build housing development in the countryside.

Therefore notwithstanding that the application site may have previously had a house erected on it, the remains of that former house are no longer capable for human habitation and therefore it can no longer be regarded as a house with lawful use rights. Consequently, the principle of the erection of one house on the application site in the countryside must be assessed against national, strategic and local planning policy relating to the control of new housing development in the countryside.

Policy DC1 sets out specific criteria for new development in the countryside, stating that there will be support in principle for new development where it is for agriculture, horticulture, forestry or countryside recreation; or other businesses that have an operational requirement for a countryside location, including tourism and leisure uses. The proposed house is not being promoted to support an existing business or leisure use the principle of which would be supported by Policy DC1. Therefore the proposed house is contrary to Policy DC1.

Policy DC4 sets out specific criteria for the erection of new build housing in the countryside, and allows for new build housing development in the countryside where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use. Policy DC4 also allows for other small scale housing proposals that form a logical addition to an existing small scale rural settlement where they are promoted for affordable housing and evidence of need is provided and the registered affordable housing provider will ensure that the dwelling(s) will remain affordable for the longer term. The proposed house does not meet any of the criteria of Policy DC4 and cannot therefore be supported.

Policy DC5 states that housing in the countryside may exceptionally be supported as enabling development where (i) it would enable a desirable primary use supported in principle by Policy DC1 or (ii) it will fund the restoration of a listed building or building with recognised heritage value. On the matter of Policy DC5, the principle of the erection of one house on the application site is not promoted to enable a desirable primary use supported in principle by criterion b of Policy DC1. In this instance there are no benefits of such a primary

use that would outweigh the normal presumption against new build housing in the countryside. Nor is the principle of the erection of one house on the application site promoted to fund the restoration of a listed building or any building with recognised heritage value. Therefore the erection of a house on the site would not be consistent with Policy DC5.

Therefore as there is no agricultural or other employment use presently in operation to justify the need for a new house on the application site. The applicant has not advanced any such case of justification of need for the principle of the proposed new house. No case has been put forward that the proposed house has an operational requirement for its countryside location or that it would be required to support a use which in principle requires a countryside location. Neither has the proposed house been promoted for affordable housing use, would not be a logical addition to an existing small rural settlement and would not enable a desirable primary use supported by Policy DC1 or fund the restoration of a listed building. Therefore the erection of a new build house on the application site is contrary to Policies DC1, DC4 and DC5 of the adopted East Lothian Local Development Plan 2018.

On the matter of Policy DC3, The Council's Policy and Projects officer notes that Policy DC3 deals with the principle of providing replacement dwellings in the countryside and sets out two criteria under which a replacement dwelling would be in principle be acceptable.

Firstly a replacement dwelling may be supported if the existing house was rendered uninhabitable by unforeseen circumstances such as a demonstrable and accidental fire provided there is compelling evidence that the loss of the original habitable dwelling was recent; Secondly a proposal may be acceptable if the house, with lawful use rights as such (not the plot of a previous now demolished house), that the Council accepts that due to the construction of the building it is incapable of retention for habitation and that all reasonable efforts have been made to maintain the building.

With regards the first criteria the policy states that the loss of the original structure that the application is replacing must have been 'recent'. Whilst there is no indication of what times scales would be considered "recent" in the adopted East Lothian Local Development Plan 2018 the original incident that led to the collapse of most of the original structure of the house took place 10 years ago. This cannot be argued to be a recent event. Neither has the applicant provided any credible evidence to demonstrate the circumstances and justification for the loss of the original structure. The collapse of most of that former house was brought to the attention of East Lothian Council in July 2010 when the Planning Enforcement Service received a complaint ref: 10/00119/COM that alleged that the works taking place on site were not in accordance with those approved by planning permission 09/00345/FUL. It was 5 months later in December 2010 that the Planning Service of East Lothian Council received a letter from the planning agent at that time advising that "due to unforeseen complications as explained to you, larger areas of the dwelling were demolished than firstly envisaged". There is no mention of a storm or other natural cause. No subsequent evidence has been provided to justify the demolition as a result of a storm. Therefore the erection of a new build house on the site as replacement for a house demolished 10 years ago and with no compelling evidence to justify the demolition of the house would be contrary to criteria (i) of Policy DC3.

Moreover, as this proposal is for a new build house, triple garage and associated works on a site where there is no existing house with lawful use rights, then criteria (ii) of Policy DC3 does not apply.

Therefore, the proposal for a new build house, triple garage and associated works on the site is contrary to both criteria (i) and criteria (ii) of Policy DC3 of the adopted East Lothian Local Development Plan 2018.

No case has been made for the proposed house to meet an agriculture, horticulture or

forestry need. No other operational need has been advanced to justify the erection of a house on the application site in this countryside location, the proposal is not for enabling development and does not meet the criteria for a replacement dwelling in the countryside therefore the proposal is contrary to Policies DC1, DC3 DC4 and DC5 of the adopted East Lothian Local Development Plan 2018 and Government policy guidance regarding the control of new housing development in the countryside expounded in Scottish Planning Policy: June 2014.

In conclusion there are no material planning considerations that outweigh the fact that the proposed development is contrary to Policies DC1, DC3, DC4 and DC5 of the adopted East Lothian Local Development Plan 2018 and Government policy guidance regarding the control of new housing development in the countryside expounded in Scottish Planning Policy: June 2014.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1 The erection of a house on the application site would be new build housing development in the countryside of East Lothian for which a need to meet the requirements of the operation of an agricultural, horticultural, forestry, countryside recreation, or other business, leisure or tourism use has not been demonstrated, and which is not proposed as affordable housing development of an existing rural settlement. The proposal is therefore contrary to Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018.
- 2 Given the length of time (10 years) since the house that had previously existed on this site substantially collapsed and the remains removed from site, then it cannot be argued that the house was rendered uninhabitable recently. Therefore, and as what remains on site is the shell of part of that former house which can no longer be regarded as being a habitable house with lawful use rights, then there is no house on the site that is capable of being replaced. Therefore, the proposal does not comply with either criteria (i) or (ii) of Policy DC3 of the adopted East Lothian Local Development Plan 2018.
- 3 The erection of a house on the application site would be new build housing development in the countryside of East Lothian for which a desirable primary use supported in principle by criterion b of Policy DC1 and with benefits that outweigh the normal presumption against new build housing in the countryside has not been demonstrated; and which is not promoted to fund the restoration of a listed building, building of recognised heritage value or significant designated feature of the built or natural environment, the retention of which is desirable. The proposal is therefore contrary to Policy DC5 of the adopted East Lothian Local Development Plan 2018.

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

REPORT TO: Planning Committee
MEETING DATE: Wednesday 24 June 2020
BY: Head of Development
SUBJECT: Application for Planning Permission for Consideration

8

Note - this application was called off the Scheme of Delegation List by Councillor Hampshire for the following reason: there is concern in the community about the condition on this site and the delay in work starting since Planning Consent was approved. I think members of the Planning Committee would benefit from visiting this site and hearing the history of the Planning Approvals.

Application No. **19/01201/P**
Proposal Erection of one dwelling house
Location **Land West of 1 Manor Gardens
Belhaven
Dunbar
East Lothian**
Applicant Mr James Brunton
Per Blueprint (Dunbar) Ltd

RECOMMENDATION Application Refused

REPORT OF HANDLING

This planning application raises important planning issues and a report on it is therefore placed on this Scheme of Delegation List.

PROPOSAL

This application relates to an area of land on the east side of North Street, Belhaven at its junction with Manor Gardens. To the west of the site on the opposite side of North Street, are single storey cottages as well as a two storey dwelling, all of which are listed as being of special architectural or historic interest (Category B).

The site is bounded to the north by a house set within its large garden grounds, to the east by a residential property and to the west by North Street beyond which are houses. To the south is the access road into Manor Gardens beyond which is house and also a late 18th century garden pavilion. That garden pavillion is listed as being of special architectural or historic interest (Category B).

The east and west boundaries of the site are enclosed by stone walls and a timber fence encloses the northern and southern boundaries of the site.

The site contains a number of mature trees, many of which are subject to a Tree

Preservation Order. By being within Belhaven the application site is within an area of residential character, as defined by Policy RCA1 (Residential Character and Amenity) of the adopted East Lothian Local Development Plan 2018. The site is also within Belhaven Conservation Area.

The site has an extensive planning history.

In June 1999 planning permission (Ref: 99/00531/FUL) was sought for the erection of one house with integral garage and associated works on the application site. A report on the application was placed before the Planning Committee meeting of the 6 March 2000. The report recommended that planning permission be refused for the following reasons:

"1 The proposed development would result in the loss from the site of four trees and possibly more. This loss would not preserve but would detract from the landscape character of Belhaven Conservation Area and would be contrary to the purpose and integrity of the Tree Preservation Order that covers them. Accordingly the proposal is contrary to Policies ENV1 and ENV5 of the approved Lothian Structure Plan 1994, Policies 15 and 19 of the adopted Dunbar Area Local Plan 1983, and Policies ENV10, NH5, NH6 and S4 of the draft East Lothian Local Plan 1994.

2 To facilitate a satisfactory standard of access to the proposed house the required upgrading of the existing access road off North Street would make the road, including its junction with North Street more prominent and significantly more intrusive in its locality. Such affect would not preserve or enhance, but rather would detract from, both the character and appearance of the Belhaven Conservation Area and the setting of the nearby listed Garden Pavilion and boundary wall. This would be contrary to Policy ENV5 of the approved Lothian Structure Plan 1994, Policy 15 of the adopted Dunbar Area Local Plan 1983 and Policies ENV10 and ENV11 of the draft East Lothian Local Plan 1994.

3 The proposed house would have a prominent and intrusive impact on the setting of the nearby listed Garden Pavilion and boundary wall, and the entrance to the larger, developed part of the walled garden off North Street and would have a contrary affect on the character and amenity of the Belhaven Conservation Area than that which currently derives from the landscape effect of the application site in its current form. Accordingly the proposal is contrary to Policies ENV1 and ENV5 of the approved Lothian Structure Plan 1994, Policies 15 and 19 of the adopted Dunbar Area Local Plan 1983, and Policies ENV3, ENV10 and ENV11 of the draft East Lothian Local Plan 1994".

At their meeting of the 6 March 2000 the Planning Committee agreed to continue the application in order to enable the application the opportunity of discussing alternative proposals with Council officers. In taking that decision, the Planning Committee accepted that the development of one house on the site was acceptable in principle. Application 99/00531/FUL was subsequently withdrawn in April 2004.

In December 2003 planning permission (Ref: 03/01484/FUL) was sought for the erection of one house on the application site. That application was withdrawn in April 2013 without it having been determined, following concerns raised by Council officers about the impact of the proposed development on mature trees located within the site.

In July 2016 conservation area consent (Ref: 16/00240/CAC) was granted for the demolition of the fence that encloses most of the southern boundary of the application site.

In November 2017, planning permission (Ref: 17/00585/P) was granted for the erection on the site of a one and a half storey, 4 bedroomed, detached house and associated access and hardstanding area. The existing stone walls at the site boundary would be extended to

enclose the southern boundary of the site where the property would also be accessed from along Manor Gardens. Garden areas would be provided to the front, side and rear of the proposed house.

A further application for Conservation Area Consent (Ref: 17/00671/CAC) was also approved in September 2017 for the demolition of the fence.

In November 2018, planning permission (Ref: 18/00618/P) was granted for the erection on the site of a one and a half storey, 4 bedrooomed, detached house and associated access and hardstanding area. The existing stone walls at the site boundary would be extended to enclose the southern boundary of the site where the property would also be accessed from along Manor Gardens.

Garden areas would be provided to the front, side and rear of the proposed house. The house size, massing and type was different to that approved in the 2017 application.

Through this application planning permission is again sought for the erection of a house on the application site. The now proposed detached house would again be positioned centrally within the site, would be one and a half storeys (some 8m) in height with a pitched roof clad with grey roof slates. The external finishes of the proposed house would be white coloured smooth render, with a grey brick base course. Its doors and the frames of its windows would be grey aluminium.

Two off-street car parking spaces would be provided the front of the house on the driveway which would be formed of Marshalls Tegula Paviers. The existing boundary treatments enclosing the west, east and north boundaries of the plot would be retained and a new stone wall to match the existing wall would replace the existing timber fence enclosing the south boundary of the plot, which would have a vehicular access within it to allow access from Manor Gardens.

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 South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Policies DP1 (Landscape Character), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), RCA1 (Residential Character and Amenity), CH1 (Listed Buildings), CH2 (Development within Conservation Areas), NH8 (Trees and Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018.

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

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish

Planning Policy that proposed development that would have a neutral affect upon the character or appearance of a conservation area (i.e. does no harm) should be treated as one which preserves that character or appearance. The design, materials, scale and siting of new development within a conservation area should be appropriate to the character of the conservation area.

Also material to the determination of the application is the Scottish Government's guidance on housing design and quality given in Planning Advice Note 67: Housing Quality.

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

Also material to the determination of this planning application is the supplementary planning guidance on Cultural Heritage and the Built Environment, which was adopted by East Lothian Council on the 30 October 2018.

REPRESENTATIONS

One representation has been received in relation to this proposal. The main grounds of representation include: (i) The resultant loss of trees from the site would be contrary to the Belhaven Conservation Area Character Statement which states that 'the extensive tree cover forms an overall landscape setting for the village', and (ii) the proposed scale of the house is out of keeping with the Conservation Area.

COMMUNITY COUNCIL

No comments received.

PLANNING ASSESSMENT

The application site is within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. Policy RCA1 does not actively promote the development of land for new build residential development. The principal purpose of Policy RCA1 is to ensure that the predominantly residential character and amenity of its area of coverage is safeguarded against the impacts of land uses other than housing. However, Policy RCA1 does state that infill, backland and garden ground development will be assessed against Policy DP7 of the adopted East Lothian Local Development Plan 2018.

The proposed new house plot is within a predominantly residential area with residential properties to the north, east, and west and beyond the public road and footpath of Manor Gardens to the south. The building of a house on the site would amount to urban infill housing development, the principle of which is supported by Policy DP7 of the adopted East Lothian Local Development Plan 2018.

Accordingly, the development of the site for the erection of a house on it can be defined as being infill housing development within the predominantly residential area of Belhaven. The principle of such development is supported by Policy DP7 of the adopted East Lothian Local Development Plan 2018.

With respect to infill, backland and garden ground development Policy DP7 of the adopted East Lothian Local Development Plan 2018 states that, amongst other principles of development, it must, by its scale, design and density be sympathetic to its surroundings and not an overdevelopment of the site.

Policy DP2 of the adopted East Lothian Local Plan 2008, amongst other things, requires that all new development must be well designed and integrated into its surroundings.

In this case regard must also be paid to the desirability of preserving or enhancing the character or appearance of the Belhaven Conservation Area as required by Scottish Planning Policy: June 2014 and Policy CH2 of the adopted East Lothian Local Plan 2008.

The proposed house would again be well contained within its enclosed site. It would however be visible from both North Street and Manor Gardens. Its impact would be reduced by the high stone boundary wall and trees that are to be retained. It would be seen in the context of the historic built form of the Category B Listed buildings to the west of the site and thus relative to the character of that part of the Conservation Area. The proposed house would be sited predominantly towards the junction of North Street and Manor Gardens and would be one and a half stories in height.

The proposed dwelling would not significantly alter the pattern and density of the established layout of the houses and other buildings within Manor Gardens and North Street. The proposed dwelling would sit comfortably in its relationship with the neighbouring buildings and would not be a crammed form of infill housing development. It would have a similar plot density to the other houses of Manor Gardens. In its positional circumstance and by virtue of its size, scale, height, positioning, form, design, external materials and enclosed nature behind a high level stone wall and trees, the proposed house would appear appropriate to its location and would not be harmful to the character and appearance of the Belhaven Conservation Area.

The proposed house would be positioned such that it would not harmfully impose itself on the setting of the listed Garden Pavillion. It would not harm the setting of that listed building or that of the listed buildings that are located to the west of the application site.

Whilst it is not essential to replicate existing building styles to build successfully in a Conservation Area and indeed in other locations both national and development plan policy nevertheless state that in designing proposed new buildings developers should think about the qualities and the characteristics of places. The development should reflect its setting and local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

The properties in this part of the Conservation Area are predominantly of a traditional architectural form and design. The external walls of the proposed house would be finished with white painted render which would be in keeping with the existing built form of this part of the Belhaven Conservation Area. They would sit comfortably with the architectural style, finish and appearance of the neighbouring houses/ buildings in this part of the Conservation Area.

The frames of the windows and doors of the proposed house, would be of a grey aluminium

construction. The majority of the frames of the windows of the buildings in this part of the Conservation Area are of timber construction. The majority of the windows of the proposed house would be visible in public views from outwith the site from the public footpath which runs parallel to the south east boundary of the site. Window frames of composite construction are not normally acceptable where they are visible in the Conservation Area and therefore, the frames of the windows of the proposed house should be of timber construction so as not to be harmful to the character and appearance of this part of the Conservation Area. Therefore were planning permission to be granted, the construction material of the window framing should be controlled by condition.

The proposed hardstanding area to be formed would provide a driveway and parking area for two cars. Given its immediate relationship with the proposed house the proposed tarmac driveway would be visible outwith the site but would not appear incongruous. By its position, form and surface materials the proposed driveway would not be harmful to the character and appearance of the Conservation Area.

On these matters of design and layout, and subject to the aforementioned controls, the proposed house and associated works accords with Policies DP2, DP7, CH1 and CH2 of the adopted East Lothian Local Development Plan 2018.

Policies DP2 and DP7 of the adopted East Lothian Local Development Plan 2018 require, amongst other considerations, that new development should not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

On these considerations the proposed new house would not have a harmful impact on the residential amenity of the neighbouring residential properties. The proposed house should also receive a sufficient amount of daylight (skylight) and the garden of it a sufficient amount of sunlight. On this matter, the proposed development is consistent with Policies DP2 and DP7 of the adopted East Lothian Local Development Plan 2018.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority, to apply the general rule of a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

There would be windows within the ground floor and first floor level of the side (southwest) elevation of the proposed house that would be within 8 metres of the southwest boundary of the site. They would also be within 15 metres from a neighbouring house on the west side of North Street to the west of the application site. However, the west boundary of the site is enclosed with a high stone boundary wall which would prevent harmful overlooking from the ground floor windows of the proposed house. Furthermore the neighbouring house on the west side of North Road is a single storey house and therefore has no first floor windows that the proposed house would directly. Therefore the proposed openings would not give rise to harmful overlooking of the ground floor windows of that neighbouring house.

As such, the proposal would not lead to overlooking or a loss of privacy to any neighbouring residential properties. The occupiers of the proposed house would also have sufficient privacy and residential amenity.

In that the application site is within a conservation area further windows or other openings, including roof windows, could not be formed in any of the elevations of the proposed house

without the requirement for planning permission and thus without the control of the Council, as Planning Authority.

By virtue of its size, height, positioning and orientation the proposed house would not give rise to a harmful loss of daylight or sunlight to the neighbouring properties, and therefore would not have a harmful affect on the residential amenity of those properties.

On these matters of residential amenity, the proposed development accords with Policies DP2 and DP7 of the adopted East Lothian Local Plan Development 2018.

The Council's Environmental Protection Manager has no adverse comment to make on the application, being satisfied that the development would not have an adverse impact on any neighbouring land uses.

The Council's Road Services are concerned that the access to the site may have implications to road safety as the access arrangement offers substandard visibility owing to the driveway being placed in close proximity to the high stone boundary wall on the corner of North Street and Manor Gardens. Therefore were planning permission to be granted, a detailed drawings showing a revised driveway arrangement to achieve a safe level of visibility should be submitted prior to the commencement of any development. This can be controlled by condition.

It is now necessary to consider the impact of the proposed development on the mature trees that are within the site.

Policy DP1 of the adopted East Lothian Local Development Plan 2018 states that all new development, with the exception of changes of use and alterations and extensions to existing buildings, must be well integrated into its surroundings by responding to and respecting landform, and by retaining and where appropriate enhancing existing natural and physical features at the site.

Policy NH8 states that development affecting trees, groups of trees or areas of woodland will only be permitted where any tree, group of trees or woodland that makes a significant positive contribution to the setting, amenity of the area has been incorporated into the development through design and layout. Development (including extensions to buildings) must also conform to British Standard 5837:2012 Guide for Trees in Relation to Design, Demolition and Construction, or any subsequent revisions.

The Council's adopted supplementary planning guidance on Cultural Heritage and the Built Environment advises that trees have particular biodiversity, landscape and cultural value. The visual impact of trees within our conservation areas is often an important part of the overall quality of the townscape. It states that proposals leading to the loss of trees that would be detrimental to the character and appearance of a Conservation Area will not be supported. The Council will use planning conditions to protect any tree within a proposed development site that makes a significant contribution to the setting and amenity of the conservation area. Where trees are to be retained any development must accord with British Standard BS5837:2012 and subsequent revisions. Where removal is permitted, replanting with one or more trees of appropriate species will normally be required.

The Belhaven Conservation Area Character Statement informs that the Conservation Area comprises the old village of Belhaven centred on High Street, Duke Street and North Street and the larger, later individual houses surrounding it. The centre of the village contains buildings dating from as early as the late 17th century. Most are 18th and 19th century with some more recent infill housing. The Character Statement advises that it is important that any new development must not result in the loss of trees that form the setting of both the

individual buildings and the Conservation Area itself.

The scheme of developments approved by planning permissions 17/00585/P and 18/00618/P both allowed for the removal of 3 trees on site to facilitate the approved one house development. Those trees have since been removed, and it is understood that this removal was undertaken by a previous owner of the site.

There remains a number of trees on the application site.

The applicant submitted an arboricultural survey in support of their planning application. The survey advised that of the 16 trees on site, 4 are of high quality and 11 are of medium quality. The survey includes a Tree Constraints Plan, which shows the root protection areas (RPAs) for each tree. The survey advises that the proposed development is shown to conflict with the RPAs of trees 2891, 2892, 2894, 2902 and 2905. The RPAs shown are based on calculations in the BS5837 (2012) but may not represent the actual rooting areas. On this matter the survey advises that "tree root protection areas (RPAs) have been drawn as symmetrical polygons. This is a standard representation of the assumed rooting area, however it is unlikely that it is representative of the actual rooting area. Roots are opportunistic and will grow where conditions allow them to. Hard objects such as foundations, walls, pavements and roads can cause roots to be deflected. In such a case, the RPA may be increased in other directions".

The applicant's arboricultural survey further informs that another qualified arboriculturalist had excavated three exploratory trenches to ascertain the presence or otherwise of tree roots within the footprint of the proposed dwelling. It advises that in all three trenches, no significant tree root growth was observed. Notwithstanding this, the applicant's arboricultural survey advises that "it is not known exactly where the trial pits were dug. Although the depth of the investigation was sufficient, the length of the trial pits do not accommodate the whole perimeter of the proposed development, therefore there is still uncertainty over the location of tree rooting within the site".

The Council's Landscape Officer confirms that he is unable to support the application due to the unacceptable level of tree root protection incursion, which is contrary to British Standard 5837: 2012 Trees in relation to design, demolition and construction. On this matter, the Landscape Officer advises that the Tree Constraints Plan within the applicant's arboricultural survey only addresses circular tree root protection zones, in reality these will be larger than is shown. This is due to underground obstacles and boundary walls preventing the tree roots growing radially. This results in the same root protection area but in the form of polygons extending further into the site, thus filling the site with the trees' root protection areas. This, the Landscape Officer advises, is pertinent to the row of trees along North Street (trees 2891 to 2896), and the extremely large Horse Chestnut tree (2905) adjacent to Manor Gardens.

Many of these trees are visible from outwith the site, have a high amenity value and have the statutory protection as the site is within a Conservation Area and the trees are additionally protected by a Tree Preservation Order.

Based on the applicant's arboricultural survey and the advice of the Council's Landscape Officer, it is reasonable to conclude that the proposed house would be within the root protection areas of significant trees. It could well result in damage to, and potentially the loss of those nearby trees that make a significant positive contribution to the landscape setting and amenity of the area. The damage to or loss of those trees would be harmful to the character and appearance of the Belhaven Conservation Area. Accordingly the proposal is contrary to Policies DP1 and NH8 of the adopted East Lothian Local Development Plan 2018, Scottish Planning Policy: June 2014, and to the Council's adopted supplementary

planning guidance on Cultural Heritage and the Built Environment.

It is now necessary to consider whether or not there are any material considerations that would outweigh this conflict with the development plan.

As stated above, planning permission (Refs: 17/00585/P and 18/00618/P) has been already been granted for the erection of a house on the site. However subsequent to their determination, it has become apparent that there was anomalies in the drawings submitted by the applicant and that they didn't accurately show the RPA's of the existing trees. It was on the basis of those drawings that the Council granted planning permission 17/00585/P and 18/00618/P. The approved house cannot be built in accordance with those approved drawings because of these anomalies. In these circumstances, there is no fallback that would justify a grant of planning permission for the house now proposed. There are no material considerations that would outweigh the proposal's conflict with the development plan, and planning permission should therefore be refused.

RECOMMENDATION

That planning permission be refused for the following reason:

- 1 The proposed house would be within the root protection areas of significant trees. It could well result in damage to, and potentially the loss of those nearby trees that make a significant positive contribution to the landscape setting and amenity of the area. The damage to or loss of those trees would be harmful to the character and appearance of the Belhaven Conservation Area. Accordingly the proposal is contrary to Policies DP1 and NH8 of the adopted East Lothian Local Development Plan 2018, Scottish Planning Policy: June 2014, and to the Council's adopted supplementary planning guidance on Cultural Heritage and the Built Environment.

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